

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

UNITED STATES OF AMERICA, )  
Plaintiff, ) No. 05-60008-2-HO  
v. ) September 7, 2010  
PIROUZ SEDAGHATY, et al., ) Eugene, Oregon  
Defendants. )

TRANSCRIPT OF TRIAL PROCEEDINGS  
BEFORE THE HONORABLE MICHAEL R. HOGAN,  
UNITED STATES DISTRICT COURT JUDGE, AND A JURY  
DAY 6, P.M. SESSION - PAGES 120 - 274

- :-

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## INDEX TO WITNESSES

FOR THE

DEFENDANT:	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
David Rodgers	123	131	145	--
Anwar Ahmad Khan	147	152	169	--
Jeffrey A. Cone	170	208	224	--
David Long	228	258	--	--

1 TUESDAY, SEPTEMBER 7, 2010; 1:04 P.M.

2 -000-

3 (Jury present.)

4 THE COURT: Well, jurors, I went to  
5 The Duck Club. We're still ahead. The Beavers are  
6 going to do great.

7 (Mr. Cardani entered.)

8 MR. CARDANI: Excuse me, Judge.

9 THE COURT: That's okay.

10 Go ahead. You may continue.

11 DIRECT EXAMINATION (Continued)

12 BY MR. CASEY:

13 Q. Mr. Rodgers, when we left off, you were  
14 talking about being in Saudi Arabia and having  
15 meetings from time to time with people from  
16 al-Haramain. In any of those meetings at any time  
17 was it ever suggested by anyone that al-Haramain,  
18 either in Saudi Arabia or in the United States  
19 provide any funding or assistance to Islamic  
20 militants, including mujahideen, and in particular,  
21 mujahideen in Chechnya?

22 A. No. I never heard of such a thing.

23 Q. Now, you talked previously or you  
24 mentioned previously that when the Qur'an Foundation  
25 in al-Haramain in the United States was distributing

1 literature to prisons, you were doing so at the  
2 request of prison officials and chaplains.

3 Do you remember that, sir?

4 A. Yes.

5 Q. You have before you certain documents.  
6 These documents have not yet been admitted into  
7 evidence, so I would ask you not to comment on their  
8 contents, but I would ask you to look at them,  
9 generally. They are documents Exhibits 1054 through  
10 1063.

11 A. Yes.

12 Q. Just take a few minutes and thumb -- or  
13 take as long as you need just to briefly go through  
14 those.

15 A. Yeah. I get the gist of it. You want me  
16 to go through each one of them?

17 Q. Just thumb through them just so you get  
18 through the end in the interest of completeness.

19 A. Okay. Yeah.

20 Q. Okay. Just generally, without discussing  
21 their contents, tell us what they are.

22 A. These are a sample of some of the letters  
23 that we would receive requesting Qur'ans and Islamic  
24 material.

25 MR. CASEY: Your Honor, I move their

1 admission for publication to the jury.

2 MR. GORDER: Your Honor, I don't think  
3 I've had a chance to see these. Maybe I'm wrong.

4 THE COURT: I'll rule later.

5 MR. CASEY: I'm sorry, Your Honor?

6 THE COURT: I'll rule later.

7 MR. CASEY: We're coming near to the  
8 conclusion of his testimony, Your Honor, so --

9 THE COURT: There's no need to read  
10 them during the testimony.

11 MR. CASEY: All right, sir. I'd ask  
12 Ms. Wells to put on the screen certain documents  
13 that have been admitted, and namely, Exhibits 607,  
14 608, 609, 610, 611 and 613, beginning with 607,  
15 please.

16 BY MR. CASEY:

17 Q. All right. Mr. Rodgers, what is that  
18 picture that we're looking at now, Exhibit 607?

19 A. That's a trip to the Redwoods. I'm  
20 standing on the left with a white cap on and Pete's  
21 standing on the right. Soliman al-But'he. Those  
22 are my two little boys with their Oregon duck shirts  
23 on, orange and yellow and green there.

24 Q. Which -- can you put a marker on the  
25 person who is Mr. al-But'he?

1 A. A marker?

2 Q. Yes. Oh, can you touch the screen and  
3 then just --

4 A. Yes.

5 Q. -- Mr. al-But'he.

6 A. This here is Soliman al-But'he  
7 (indicating).

8 Q. All right. 608, please. Who is in that  
9 picture, sir?

10 A. Starting on the left is Pete, and that's  
11 Rob Brown and next is -- I believe that's John Dunn  
12 and myself with the cowboy hat on, on the right,  
13 planting trees for the Forest Service.

14 Q. When was that, do you know, roughly?

15 A. I don't know. We did a lot of jobs like  
16 that.

17 Q. All right. Is that typical of the kind of  
18 jobs you'd be doing?

19 A. Yeah. When we worked reforestation jobs,  
20 yeah.

21 Q. 609, where was that and who is in that  
22 picture?

23 A. I can't really tell where it was at, but I  
24 know who is there. I think this was in Pete's  
25 house. This is -- you know, in those early days

1     when I lived in Sprague River we had a group of  
2     friends, you know. And as I said, we used to  
3     discuss, you know, Islam -- and some of us became  
4     Muslims, some of us didn't. But we were always good  
5     friends from high school, and we used to get  
6     together, and you know, have, you know, little  
7     meetings and, you know, friendly get-togethers.

8             And that's a picture of myself and Pete  
9     and Rob Brown, John Dunn. And the guys in the front  
10    are Rob Robinson and Bob Wongen (phonetic). They're  
11    old high school friends and people we used to ride  
12    horses and travel on pack trips with. They're good  
13    friends from high school.

14            Q.     Okay. Can you point out Pete?

15            A.     Pete, yeah, he's right there (indicating).

16            Q.     And who is the woman next to him, do you  
17    know?

18            A.     I believe that's his mother.

19            Q.     Okay. Next exhibit, 610, please. What do  
20    you see there?

21            A.     This is the camel standing in front of the  
22    Islamic Center in Ashland.

23            Q.     And as Mr. Cardani might say, I have a  
24    very important question. What's the name of that  
25    camel?



1           A.       Actually I named him mandub, which means  
2       ambassador in Arabic.

3           Q.       That's the prayer house, basically?

4           A.       That's the prayer house in Ashland, yes.

5           Q.       Okay. Next exhibit, 611. What do you see  
6       there, sir?

7           A.       This is a tent we had set up outside of  
8       our Islamic Center there for cultural events  
9       inviting people to come and hear talks about Islam  
10      and Arabian culture and this type of thing.

11          Q.       And who all would you invite to attend?

12          A.       Oh, the general public. We had kind of a  
13      program called Arabian Knights, and we'd invite the  
14      general public to come over and hear about, you  
15      know, the basics of Islam and Muslim culture and try  
16      to, you know, build that understanding and such.

17          Q.       In 613, what do we see here?

18          A.       This is a picture of me and the king of  
19      Saudi Arabia. I'm receiving an award -- a gift, I  
20      should say. He had a horse that was very difficult  
21      at the starting gate, and I specialize in gate  
22      training horses -- race horses before the -- so they  
23      load in the starting gate.

24                    I trained his horse to load in the  
25      starting gate. The day of the big cup in Saudi

1 Arabia, I personally loaded the horse in the gate,  
2 and the horse wanted to race. And he invited us all  
3 over to give us a gift. And in that box was a  
4 really nice watch, a Bvlgari watch.

5 Q. Okay. So, Mr. Rodgers, you've known  
6 Mr. Seda for quite a few years.

7 A. Yeah.

8 Q. Is there anything -- is there anything  
9 about Mr. Seda that has ever given you the sense  
10 that he has a side to him other than what he has  
11 shown to you, a secret side, a dark side, a side  
12 that would be supportive of Islamic militant  
13 activity?

14 A. I've known Pete for many, many years, and  
15 we've done all kinds of things together. And I  
16 probably -- I can honestly say I'm probably, you  
17 know, his -- one of his best friends in the world.  
18 And he knows me and I know him very well. And he's  
19 been very open with me and very, you know, confiding  
20 in everything we've done.

21 And there's nothing secret about him, he's  
22 very open and honest. He's a very frank person. I  
23 mean it's like what you see is what you get with  
24 Pete. He's just out there. He's not false or  
25 pretentious whatsoever. And there's no secret side

1 to him whatsoever. I've never -- you know, he's a  
2 very honest, kind person.

3 Q. Have you ever heard him say anything or do  
4 anything to lead you to believe that he was somehow  
5 supporting mujahideen activities anywhere in the  
6 world?

7 A. Absolutely not. And I've heard the  
8 contrary constantly from him. He always said that  
9 "These things are political. Let's just do our job  
10 and try to represent the basics of our faith here."

11 It was a huge job to do in this country to  
12 try to just do the basics. We had nothing to do  
13 with what was going on overseas and didn't even  
14 really know the truth of what was going on in other  
15 countries and conflicts.

16 I worked with the guys on -- like you've  
17 seen on some of the pictures in the mountains on  
18 jobs, and I never even seen the guy get in a fight,  
19 never, with the guy. He was absolutely not a  
20 violent person. I never seen him even come close to  
21 getting in an actual physical fight with anyone.  
22 Nothing like this. Not even close.

23 MR. CASEY: Thank you, Mr. Rodgers.

24 THE WITNESS: May I step down?

25 MR. CASEY: No, no. There's more to

1       come.

2                                   CROSS-EXAMINATION

3       BY MR. GORDER:

4               Q.       My name's Charles Gorder.

5               A.       Yes.

6               Q.       And I represent the United States, so I  
7       get a chance to ask you a few questions.

8               A.       Yes, sir.

9               Q.       Now, at the time that you were living in  
10       Sprague River, that was back in the early 1980s?

11              A.       Yes.    Early 1980s.

12              Q.       Okay.   About when did you move back to  
13       Ashland?

14              A.       I lived in Sprague River for a few years,  
15       about four years.   I think I spent four winters out  
16       there.   And then, like I said, I had to actually get  
17       a real job and try to pay off this land and -- so I  
18       moved.   It was about four years, sir.

19              Q.       Okay.   So maybe the middle 1980s?

20              A.       Yeah.   Something like that, sir.

21              Q.       Okay.   And you indicated that while you  
22       were out there, the defendant gave you a Qur'an.   Is  
23       that correct?

24              A.       Yes.

25              Q.       It wasn't the Noble Qur'an with the Call

1 to Jihad appendix?

2 A. No, it wasn't.

3 Q. You became familiar with that one later  
4 on?

5 A. Yes.

6 Q. Okay. When you moved back to Ashland, how  
7 did you support yourself?

8 A. Well, my parents actually lived -- was  
9 living in Ashland, and at the time my father was  
10 alive and my mother was living there too, and I did  
11 odd jobs. You know, I tried to train horses and, as  
12 I said, I worked for -- you know, we did forest  
13 service contracting and worked on ranches, this type  
14 of thing.

15 Q. Okay. Did you work for the defendant?

16 A. I worked for him? Yeah. He was a  
17 contractor in Forest Service contracts, yeah.

18 Q. And then how about when he started his  
19 arborist business? Did you work for him there?

20 A. I don't remember ever working for him at  
21 that point when he was an arborist. I pretty much  
22 had established myself on ranches and was heading  
23 for being a horse trainer, trying to get out of that  
24 tree business myself.

25 Q. Did you work for him for the Al-Haramain

1 Foundation in Ashland?

2 A. Yes.

3 Q. Were you paid?

4 A. I was paid, yes.

5 Q. And were you paid in cash?

6 A. I think it was cash. I -- yeah.

7 Sometimes cash, yeah.

8 Q. Under the table, as they say?

9 A. Probably.

10 Q. When did you leave Ashland to go to Saudi  
11 Arabia the first time?

12 A. When did I leave Ashland. I've been  
13 living in Saudi Arabia -- it was about 11 years ago  
14 -- yeah, so I left --

15 Q. So 1999?

16 A. Roughly, yeah.

17 Q. And you've lived there ever since?

18 A. I did come back, you know, for a period of  
19 time, but roughly, I've lived there almost ten years  
20 straight, yeah.

21 Q. So you weren't there when -- you weren't  
22 in Ashland when the Chechnyan War kind of exploded  
23 again in late 1999?

24 A. No. I was probably in Saudi Arabia, yeah.

25 Q. Do you remember some speakers when you

1       were in Ashland, for example, Sheikh Hassan?

2           A.       Yes.

3           Q.       He was kind of radical?

4           A.       Radical?  Conservative.

5           Q.       Did you ever hear him say that Muslims  
6 shouldn't live in the United States?

7           A.       I don't remember him saying that  
8 personally, no.

9           Q.       How about a fellow named Abdul Qaadir?  
10 Did you meet him?

11          A.       Adbul Qaadir, yeah.

12          Q.       We can -- we've got a couple of pictures.  
13 Is this Abdul Qaadir?

14          A.       That's Abdul Qaadir that I know, yeah.

15          Q.       Okay.  And by the way, this is  
16 Mr. Al-But'he?

17          A.       Yes, sir.

18          Q.       Okay.  Where did you meet Abdul Qaadir?

19          A.       I believe I first met him in Saudi Arabia.  
20 He was working for the al-Haramain.

21          Q.       And did you get his emails about Chechnya?

22          A.       Not personally, but yeah, we received at  
23 the office, you know, in Ashland all kinds of  
24 emails.  But about Chechnya?  I don't remember  
25 specifically about Chechnya.  We were constantly in

1 communication.

2 Q. Okay. You left Ashland in 1999 -- is that  
3 correct? -- and went to Saudi Arabia?

4 A. Yes. Roughly, it was about that date.

5 Q. While you were in Saudi Arabia, did you  
6 receive emails from Mr. Abdul Qaadir as part of the  
7 Sheeshaan email group?

8 A. I don't remember that specifically. I --  
9 I did receive emails from him probably. We  
10 continued to stay in communication, so yeah.

11 Q. Okay. What did he do for al-Haramain?

12 A. You know, his English and his Arabic was  
13 really good so he worked kind of in this translation  
14 and communicating between the American-speaking  
15 world or the English-speaking world and the Arabic  
16 type of things.

17 Q. But you don't remember getting a whole  
18 bunch of emails about Chechnya from him as part of  
19 the Sheeshaan group?

20 A. No, not at all.

21 Q. How about -- we've heard of another  
22 gentleman a little bit, an Abdulaziz Al-Shoumar.  
23 And I may be butchering the pronunciation. Do you  
24 know him?

25 A. Yes. I knew him, yes.



1 Q. Where did you meet him?

2 A. Same. In Saudi Arabia.

3 Q. Was he one of al-Haramain's accountants?

4 A. I don't know what his position was exactly  
5 in al-Haramain, yeah, but I knew him from there.

6 Q. Okay. Did you have meetings with him?

7 A. Yeah. He also was an English speaker and  
8 had something to do with the English-speaking group,  
9 yeah.

10 Q. Okay. But beyond speaking English, what  
11 was his role?

12 A. I don't really know what exactly his role  
13 was, honestly.

14 Q. Did you ever participate in al-Haramain's  
15 Asia committee?

16 A. Al-Haramain's what committee?

17 Q. Asia committee?

18 A. Asia committee. Not that I know of.

19 Q. Did you ever participate in a committee  
20 that decided how to distribute money to Chechnya?

21 A. No, not that specifically, no. Any  
22 meetings that we had were generally about how we're  
23 going to run the Ashland office, and the day-to-day  
24 how we're going to issue the books and how things  
25 are going, this type of thing.

1 Q. Okay. Let's talk about the books a little  
2 bit. You mentioned the Noble Qur'an with the Call  
3 to Jihad?

4 A. Yes.

5 Q. And you indicated that at some point you  
6 talked them out of that?

7 A. We tried to tell them that we didn't like  
8 the translation that they were sending us, you know,  
9 yeah.

10 Q. But did they do anything about it?

11 A. Eventually they did. They -- eventually  
12 they came out with another one that was like  
13 revised.

14 Q. And when was that?

15 A. Oh, it probably took them a couple years  
16 to do.

17 Q. Was it after 9/11?

18 A. I don't remember the date. I don't  
19 remember exactly when they came out with it.

20 Q. Now, do you recall being interviewed by  
21 William Teesdale, one of the investigators for the  
22 lawyers for Mr. Seda?

23 A. Do I remember being interviewed?

24 Q. Right. By a Willaim Teesdale?

25 A. Yes.

1 Q. Okay. August 26, 2009?

2 A. I think that was -- I don't remember  
3 exactly the day, but yes.

4 Q. Okay. Here in Eugene.

5 A. Yes.

6 Q. You were back visiting.

7 A. Yes, sir.

8 Q. He met with you.

9 A. Yeah.

10 Q. Do you remember telling him that you wrote  
11 letters to the al-Haramain organization complaining  
12 about the Noble Qur'an, but they would not listen?

13 A. Yeah. I mean we wrote many letters to  
14 them that they never responded to, you know, and --

15 Q. And you kept distributing the Noble  
16 Qur'an?

17 A. We kept distributing the Noble Qur'an,  
18 yeah. We had an overwhelming request for Qur'ans  
19 that we couldn't fill and -- you know, even though  
20 we may -- didn't agree with all of it, we didn't  
21 have a resource to drop the whole program.

22 Q. How about this book, the Islamic  
23 Guidelines?

24 A. Yeah.

25 Q. Do you remember that one?

1 A. Roughly, yeah.

2 Q. You'd send it to prisoners?

3 A. I don't remember if that was sent to  
4 prisoners specifically. It perhaps was part of a  
5 package of -- that was for converts.

6 Q. Okay.

7 A. Yeah.

8 Q. Got some pretty nasty things to say about  
9 Jewish people?

10 A. I don't really remember what it exactly --  
11 what it -- exactly the whole contents of the book,  
12 no.

13 Q. Okay. Can we have EGR 2-A, and this is  
14 not in evidence so -- go to that next page. If you  
15 could take a look at No. 3 on page 108 there.

16 Does that refresh your recollection?

17 A. Generally, what's -- yeah. What about it?

18 Q. You were sending that to prisoners -- or  
19 converts, as you said?

20 A. This book, yeah. We were sending this  
21 book to some people, converts. I don't think we  
22 were sending it directly to prisoners. Most prisons  
23 have a problem with a hard copy book, and they  
24 wouldn't accept hard copy books. We generally  
25 didn't send hard copy -- hard covers into prisons.

1 They wouldn't accept it.

2 Q. Would it surprise you if a thousand of  
3 these were distributed to prisoners?

4 A. I don't know.

5 Q. After you left in 1999 the prisoner  
6 project continued as far as you know, didn't it?

7 A. Oh, yeah.

8 Q. Now, could we have Defense 602B.

9 Now, you've told us about this particular  
10 statement that you signed along with the defendant  
11 and Soliman al-But'he.

12 A. Yes.

13 Q. Okay. When was that signed?

14 A. When was it signed? I don't really  
15 recall.

16 Q. Was it about the time al-Haramain took  
17 over?

18 A. Probably, yeah. Roughly about this time.

19 MR. CASEY: Your Honor, I object to  
20 the term "took over."

21 THE COURT: Overruled.

22 BY MR. CASEY:

23 Q. About the time that al-Haramain became  
24 part of the operation in Ashland.

25 A. I would be guessing, but roughly, yeah.

1 Q. Okay. Now, did al-Haramain revoke this  
2 agreement at some point?

3 A. Revoke it?

4 Q. Right.

5 A. No. I don't -- I see Soliman al-But'he's  
6 signature on it. He was director of the office  
7 there.

8 Q. Well, do you remember telling Mr. Teesdale  
9 that you sent a mission statement to the Kingdom of  
10 Saudi Arabia saying that you would have nothing to  
11 do with terrorism or politics, but they would not  
12 agree to it?

13 A. Like I said, we sent many requests and  
14 things like this paper to them that never came back.  
15 No comment. Just gone.

16 Q. Did you say "Rodgers said the statement  
17 was about Islam being nonviolent, but the Saudi's  
18 would not agree"?

19 A. Excuse me?

20 Q. Mr. Rodgers said, "The statement was about  
21 Islam being nonviolent, but the Saudis would not  
22 agree."

23 MR. CASEY: Request to show the  
24 witness a copy of the statement.

25 THE COURT: That's fine.

1 (Document shown to Counsel and witness.)

2 MR. CASEY: Thank you.

3 BY MR. GORDER:

4 Q. So do you remember saying that?

5 A. Not specifically but --

6 Q. Well, did you send a mission statement to  
7 the Saudis and they would not agree to it on this  
8 subject?

9 A. Well, we sent this mission statement that  
10 is on the screen here, and I didn't know anything  
11 about it, whether it came back or not or got signed  
12 or not, but I see here that it is signed.

13 Q. But you said the Saudis would not agree?

14 A. To my knowledge, they never sent -- you  
15 know, I was just a worker in the office. I didn't  
16 know that they ever agreed or didn't agree, but I  
17 never heard anything back from them. But I see here  
18 that it's signed.

19 Q. So you were just a worker in the office?

20 A. Uh-huh.

21 Q. The defendant was the person who dealt  
22 with the people in Riyadh?

23 A. Yeah, mostly.

24 Q. When the Qur'an Foundation was first  
25 going, it was operating on a shoestring budget. Is

1       that correct?

2           A.       Yes.

3           Q.       And when al-Haramain got involved, all of  
4       a sudden there was a lot more money?

5           A.       There was a lot more books and supplies,  
6       yes.

7           Q.       Noble Qur'ans?

8           A.       Qur'ans, books of all kinds.

9           Q.       Islamic Guidelines?

10          A.       Some of -- that was probably part of their  
11       books, yeah.

12          Q.       And you accepted those and sent them out.

13          A.       Yeah.

14          Q.       Because they were the people with the  
15       money.

16          A.       Yeah. Well, we were trying to provide  
17       books to thousands of requests and -- which we  
18       didn't have resources to fill, and they were willing  
19       to fill these requests, so yes, we didn't have an  
20       alternative but to send the books that we got.

21          Q.       You said that when you met the al-Haramain  
22       people in Saudi Arabia, you never discussed funding  
23       for the mujahideen. Is that correct?

24          A.       Yeah. Never -- never discussed anything  
25       like that.



1 Q. Did you ever take a look at the  
2 al-Haramain website?

3 A. A couple times, yeah, maybe.

4 Q. Did you ever read any fatwas about funding  
5 the mujahideen?

6 A. Don't remember. Perhaps I did.

7 Q. Well, if you did, then that would have  
8 been something about al-Haramain funding the  
9 mujahideen, wouldn't it?

10 A. Excuse me?

11 Q. If you read something on their website --

12 A. Yes.

13 Q. -- about funding the mujahideen, then it  
14 would not be correct that al-Haramain had nothing to  
15 do with it. Is that right?

16 A. I'm not sure about the question. What are  
17 you asking exactly?

18 Q. I'm asking, did you ever notice anything  
19 on their website about funding the mujahideen?

20 A. Not to my recollection. I don't remember  
21 reading anything specific.

22 Q. Okay. The defendant had a wife named  
23 Safiyah?

24 A. Yeah.

25 Q. Do you remember her?

1           A.       I mean, yeah, I didn't know her personally  
2 too much, but yeah.

3           Q.       Did you understand that she spoke Russian?

4           A.       I think she was from Russia, yeah.

5           Q.       Were you aware that she was translating  
6 for the Chechnyan mujahideen website?

7           A.       No, never heard of it.

8           Q.       Would it surprise you if that was  
9 happening in the Al-Haramain --

10                   MR. CASEY:   Objection --

11 BY MR. GORDER:

12           Q.       -- office in Ashland?

13                   MR. CASEY:   Relevance, your Honor.

14                   THE COURT:   Overruled.

15           A.       Would it surprise me?

16 BY MR. GORDER:

17           Q.       Yes.

18           A.       Yeah.

19                   MR. GORDER:   Nothing further, Your  
20 Honor.

21                   MR. CASEY:   Quickly, Your Honor.

22 Mr. Gorder, may I see a copy of the Islamic  
23 Guidelines?

24                   REDIRECT EXAMINATION

25 BY MR. CASEY:

1 Q. This is the Islamic Guidelines, is it not?  
2 Do you recognize the book?

3 A. Yeah. I've seen it, yeah.

4 Q. It's a hardcover book?

5 A. Yeah.

6 Q. And is it not a fact that most prisons or  
7 all prisons, to your knowledge, will not accept  
8 hardcover books?

9 A. Yeah. It was their policy that we didn't  
10 send these to prisoners -- hard copy books, Qur'ans  
11 or whatever, hard copy books. It was against the  
12 rules, for security.

13 MR. CASEY: Nothing further, Your  
14 Honor.

15 THE COURT: You may step down.

16 THE WITNESS: Thank you.

17 THE COURT: Next witness, please.

18 MR. WAX: Call Anwar Khan.

19 (The witness was sworn.)

20 THE CLERK: Please have a seat.

21 Please speak into the microphone here and there's  
22 water if you would like some.

23 Please state your full name and then  
24 spell your name for the record.

25 THE WITNESS: My name is Anwar Ahmad

1 Khan, A-N-W-A-R, first name; Ahmad, A-H-M-A-D,  
2 second name; Khan, K-H-A-N, last name.

3 DIRECT EXAMINATION

4 BY MR. WAX:

5 Q. Mr. Khan, could you tell the members of  
6 the jury, please, where you're employed.

7 A. I'm employed with the Islamic Relief  
8 U.S.A, and I'm based out of Plano, Texas.

9 Q. Were you working for the same organization  
10 in the years 1999 and 2000?

11 A. Yes.

12 Q. And where were you based at that time?

13 A. Burbank, California.

14 Q. Could you tell the members of the jury,  
15 please, whether you are a standalone organization  
16 here in the United States or part of a larger group?

17 A. We are an independent U.S. organization,  
18 Islamic Relief U.S.A, but we have agreements with  
19 other Islam Reliefs in other countries, such as U.K.  
20 and Pakistan that we have -- and we work with them.

21 Q. Is the U.K. organization in any way a  
22 parent of the others?

23 A. It's not of the U.S.A.

24 Q. Excuse me. It is not of the U.S.A?

25 A. Yeah.

1 Q. Okay. Is it of any of the other branches  
2 elsewhere in the world?

3 A. It may be with some of the other offices.

4 Q. Okay. You don't know specifically?

5 A. No.

6 Q. Can you tell us, please, roughly what  
7 volume of dollars comes through your organization in  
8 a given year?

9 A. Last year it was over \$130 million in  
10 donations, of which about 35 million was cash and  
11 over 100 million was pharmaceuticals and other  
12 in-kind donations.

13 Q. Have you personally come back recently  
14 from a place in the world where there has been some  
15 terrible devastation?

16 A. I just came back from Pakistan about a  
17 week and a half ago, and I was in Haiti earlier this  
18 year.

19 Q. Okay. I would like, sir, to ask one more  
20 general question. And if you could tell the members  
21 of the jury, please, generally what the nature of  
22 the work is that your organization does today, and  
23 then whether that's any different than the nature of  
24 the work the organization did in 1999 and 2000.

25 A. We do humanitarian work and that's

1 involved in education, nutrition, vaccinations. And  
2 the difference between now and maybe 1999, 2000, is  
3 we're doing a lot more work in America. So we do  
4 feeding the homeless programs in different parts of  
5 America. We're supporting free clinics in South  
6 Central Los Angeles, and we're doing a lot more  
7 humanitarian work in the U.S. than we did before.

8 Q. In 1999 and 2000, was your organization  
9 involved at all in humanitarian work with refugees  
10 of the Chechnyan Russian War?

11 A. Yes, we were.

12 Q. Could you tell the members of the jury,  
13 please, a little bit about the work that you were  
14 doing in that region in that time frame?

15 A. Yes. Islamic Relief was in the Caucasus  
16 that suffered in the Russian area from the '90s.  
17 There was a war in '94/'95. We had an Islamic  
18 Relief office in Chechnya, and we were distributing  
19 humanitarian supplies. This was done with the  
20 permission of the Russian government at the time.  
21 There was a war going on between some Chechnyan  
22 factions and the Russian government.

23 Then the war began again in '99, and we  
24 already had some offices there. We in America were  
25 supporting the camps that the Chechens were forced

1 to flee their homes from the fighting. They went to  
2 Ingushetia, which is a Russian state next to  
3 Chechnya. We were supporting camps with food,  
4 water, and those kinds of supplies.

5 Q. Did you personally make any trips to  
6 Ingushetia to any of the camps that you were  
7 supplying?

8 A. Yeah. In 2000 I went to Ingushetia to see  
9 the work that we were doing, the water that we were  
10 distributing, the food parcels, as well.

11 Q. In that same time frame, did your  
12 organization put out any list serves on computers or  
13 on the internet -- any information about the  
14 situation in Chechnya and any of the work that your  
15 organization was doing?

16 A. Yes, we did. This is important. People  
17 need to know where their money is going, what we're  
18 doing with their money, and what the situation was  
19 over there.

20 Q. Did you actually put out a series of  
21 bulletins on the IR website to a ListServe 7, 8, 9,  
22 10, et cetera, describing the work and situation in  
23 Chechnya?

24 A. Yes, we did.

25 Q. I'd like to ask, sir, whether in late

1 February or perhaps early March of 2000, you  
2 received any communication from an organization in  
3 Oregon inquiring about relief in Chechnya?

4 A. I believe sometime in 2000 I received a  
5 phone call from somebody from Oregon.

6 Q. And what do you recall about the content  
7 of that phone call?

8 A. The person said that he had a lot of money  
9 that he would be willing to give us. That's why it  
10 was given to me. I'm in charge of fund-raising in  
11 Islamic Relief U.S.A, so if donors want to give  
12 money and they're interested in donating, they're  
13 sent to me, so it came to me. I spoke to him, and  
14 he said that he was willing to give us money, but he  
15 wanted to send a representative from his  
16 organization to Chechnya with us and to select a  
17 program over there to do.

18 And I explained to him that we couldn't do  
19 that. We didn't know who he was. We didn't want to  
20 work with organization -- volunteers that we didn't  
21 know to send him over there, that may have been  
22 liability issue for us and cause problems for us  
23 over there.

24 Q. Okay. And do you recall the phone number  
25 of your organization back in February and March of



1 2000?

2 A. The Burbank, California, number was  
3 818/238-9520 at that time.

4 Q. 818/238-9520?

5 A. (No audible response.)

6 MR. WAX: Thank you, sir. I have no  
7 further questions.

8 THE COURT: Cross.

9 CROSS EXAMINATION

10 BY MR. CARDANI:

11 Q. Mr. Khan, we met briefly a few moments  
12 ago. I just have some questions here. When this  
13 individual -- you don't know who it was that called  
14 you? You just think it was somebody from Oregon?

15 A. Yeah. I knew it was from Oregon. I  
16 assumed it was from some of the mosques in Oregon  
17 that supported us. That's what --

18 Q. Not al-Haramain, but a different --

19 A. Yeah. It wasn't al-Haramain, no. I never  
20 worked with al-Haramain. I know that there was a  
21 mosque here in Portland, Oregon, that had donated  
22 money, and I thought it may have been them, but it  
23 wasn't. He explained to me he wasn't with the  
24 mosque.

25 Q. All right. And if I just get this

1       correctly, this individual said he had a lot of  
2       money that he wanted to distribute, to work with  
3       your organization in distributing in Chechnya.

4           A.       Yes.

5           Q.       And you -- he put a limitation on it that  
6       he wanted to send someone from the organization to  
7       go with you?

8           A.       Yeah. To pick the humanitarian project,  
9       yeah.

10          Q.       And you said that you couldn't allow that.

11          A.       No.

12          Q.       Didn't you also say that you'd be happy to  
13       accept a donation of this money and make the proper  
14       distributions through your organizations and give  
15       him a detailed report?

16          A.       Yeah.

17          Q.       Yes? She's got to get all this down.

18          A.       Yes.

19          Q.       All right. What do you remember about  
20       telling this person about that?

21          A.       Just what you said. That would be a  
22       general thing, that when people give us money,  
23       especially large amounts, we know they want reports  
24       and that we're willing to report on what we're doing  
25       over there.

1 Q. Did you ever hear -- did the person say,  
2 Okay. I'll send you some money, and go ahead and do  
3 it?

4 A. No.

5 Q. To the best of your knowledge, did this  
6 person send you any money?

7 A. No.

8 Q. To the best of your knowledge, did  
9 al-Haramain in Oregon ever send your organization  
10 any money for distribution in Chechnya?

11 A. No, not to the best of my knowledge.

12 Q. Now, you mentioned that you worked with  
13 permission of the Russian government. So your  
14 organization is a very large charitable relief  
15 organization?

16 A. Yes.

17 Q. And so it works -- in Ingushetia and in  
18 the Chechnyan region back in 2000, you had the  
19 express permission of the Russian government?

20 A. Yes. Without them -- it's the same. We  
21 have the permission in the U.S. We're a nonprofit  
22 501(c)3. Unless we have permission of the  
23 governments, we can't work over there.

24 Q. And is one of the -- you said you went  
25 over there in 2000, I think, to one of these camps.

1 Is it dangerous?

2 A. Yes.

3 Q. And did you have to have a number of  
4 Russian bodyguards when you went over to these  
5 camps?

6 A. I didn't want bodyguards, but they didn't  
7 give me a choice.

8 Q. Okay. So were they Russian?

9 A. Yes, they were.

10 Q. And how many were with you?

11 A. The first time I went in 2000, oh, a  
12 handful.

13 Q. A handful, okay. Are you aware that  
14 al-Haramain had some activity over there, as well,  
15 during this time?

16 A. No.

17 Q. You didn't know about any kind of things  
18 in Ingushetia with al-Haramain?

19 A. No, I didn't.

20 Q. Okay. Now, when you receive funds for  
21 distribution overseas, what are the recordkeeping  
22 requirements or procedures that your organization  
23 goes through?

24 A. I'm a fund-raiser so I can only talk in  
25 general terms.

1           Q.       Okay. If you could speak -- there's a  
2 microphone in front of you there. If you could just  
3 speak up a little into the microphone.

4           A.       I'm a fund-raiser. I can talk in general  
5 terms. I know that when we raise funds from people,  
6 often we designate what the funds are going to. For  
7 example, Pakistan floods.

8                   So we would tell them 20 million people  
9 have been affected. Many children are about to die  
10 from hunger over there right now. So we would raise  
11 money and we would say it's going to Pakistan  
12 floods.

13                   Then it would go to accountants. First it  
14 would be entered in our donations. Now we're based  
15 out of Virginia -- an office in Virginia. They enter  
16 it over there. Then accountants would make sure  
17 that we honor the wishes of the donors, and a board  
18 would have to give approval for the money to be  
19 sent, and legal counsel would be involved, as well,  
20 so we have CPAs, legal counsel, involved to make  
21 sure that the money is sent by the regulations of  
22 the U.S. government, and it gets to the people who  
23 need it over there.

24           Q.       And then once it gets over there, what  
25 about the recordkeeping requirements to ensure that

1 the money gets to the proper people?

2 A. Yeah. We have to report that, and we do  
3 several audits of certain countries every year. So  
4 we -- when we send the money, they tell us, yes,  
5 we've received the money. And then we get a report  
6 from them, how the money was done. That's the  
7 basic. But oftentimes, we do more than that. We do  
8 audits, as well.

9 Q. Why do you do audits as well, sir?

10 A. It's a requirement that we were told --  
11 we're based out of California, even now, and the  
12 attorney general of California, we submit reports of  
13 where our money has been spent every year.

14 Q. And the idea there is just to make sure  
15 you do everything reasonably that you can, to make  
16 sure that the money ends up with the people that  
17 really need it?

18 A. Yes.

19 Q. And the funds that you fund-raise here in  
20 the United States for these overseas distributions,  
21 are those reported in which you understand is a Form  
22 990 by Islamic Relief?

23 A. I know in the Form 990 we declare how much  
24 we've raised. Because I'm not intricately involved  
25 with that, I don't know much more than that about

1 it. But I do know that we do report to the attorney  
2 general in California where the money was sent.

3 Q. Okay. And also on the Form 990 with the  
4 Internal Revenue Service?

5 MR. WAX: Your Honor, I'd object. He  
6 said he doesn't deal with it.

7 A. Well, I don't deal with the IRS, so the  
8 990, I don't know about -- I know that has the total  
9 amount for sure and a percent of administration is  
10 on there. I don't know about the individual  
11 projects, if they're on there.

12 BY MR. CARDANI:

13 Q. Okay. But if somebody just jumped on your  
14 website, IRW.org, is that your --

15 A. It's now called IslamicReliefUSA.org.

16 Q. Okay. If someone just jumped on there  
17 today, wouldn't they immediately see your Form 990  
18 that you filed with the IRS?

19 A. I'm not sure. I know there's a percentage  
20 of administration on there.

21 Q. Okay. Have you been to your website  
22 recently?

23 A. No, not recently. Sorry. I've been  
24 traveling for quite some time.

25 Q. I understand, sir. But if someone was

1 interested in donating to the Pakistan flood  
2 situation --

3 A. I know often people go -- the 990 is  
4 available online, and I know people do check out our  
5 990.

6 Q. Now, you put out some literature Mr. Wax  
7 referred to. Could we bring up -- I think it's  
8 Defense 686B, as in boy.

9 A. Yes.

10 Q. Okay. Do you recognize that as some  
11 literature put out by Islamic Relief back in early  
12 2000?

13 A. Yes.

14 Q. And that concerned the situation in  
15 Chechnya and Ingushetia?

16 A. No. This is just a Merry Christmas.

17 Q. Oh, okay. Let's go to the next page.

18 A. Holiday is called Eid and Mubarak means  
19 greetings, so it's just --

20 Q. Okay. All right. How about -- let me  
21 take another chance, 682. Okay. Does this --

22 A. Yes.

23 Q. -- refer to a holiday or is this something  
24 else?

25 A. No. This is referring to the work that we



1 were doing in the refugee camps in Ingushetia.

2 Q. Okay. So it says here December '99,  
3 Islamic Relief, and it involves refugee camps in  
4 Ingushetia. And you were operating such camps --  
5 your organization was operating such camps?

6 A. Our Russian office was. We were working  
7 in those camps. I think they were actually  
8 operating some of them by the U.N., and we were  
9 working with the U.N. in those camps.

10 Q. So if someone called you during this time  
11 period and said, I have \$200,000 for -- to support  
12 the camps there, would you have taken that money?

13 A. To support our work over there?

14 Q. Yes, sir.

15 A. Yes.

16 Q. And then send it over here to the  
17 Ingushetia camps and operated in a manner consistent  
18 with your testimony today?

19 A. Yeah.

20 Q. Now, I want to show you something that's  
21 been marked AK2. It's not in evidence. I just want  
22 to see if you can identify it. Your group is a huge  
23 organization, sir. Did you say that it raised \$130  
24 million last year?

25 A. Yes. Over that, yes.

1 Q. And going back in time roughly to -- it's  
2 been tens of millions of dollars the last ten years  
3 -- is that a fair statement? -- that you've raised?

4 A. Our organization?

5 Q. Yes, sir.

6 A. No. A lot more than that.

7 Q. Okay. 60, 70, \$80 million a year?

8 A. No. I think 130 million last year. Maybe  
9 70 the year before that. 50 the year before that,  
10 30 the year before that. But in 2001, we were  
11 probably on about -- 2000, 2001, we were probably  
12 about 6 million.

13 Q. And your organization puts out annual  
14 reports telling people where their money is going.  
15 Is that correct?

16 A. Yes.

17 Q. All right. I want to show you something  
18 that I've marked AK-2. And if I could have the  
19 witness shown this.

20 MR. WAX: May we have a copy, Chris?

21 MR. CARDANI: I've got one other copy  
22 and it's floating around.

23 (Pictures shown to witness.)

24 BY MR. CARDANI:

25 Q. Mr. Khan, do you recognize that as the

1 Islamic Relief U.S.A 2002 annual report?

2 A. Yes.

3 Q. And this was put out by Islamic Relief to  
4 people worldwide to show the many activities that  
5 your organization was doing around the world to help  
6 refugees.

7 A. It was produced for the American market,  
8 yeah.

9 Q. Okay. And is it true that this 2002  
10 report involves some work that you're doing in  
11 Chechnya?

12 A. It should do -- yes, it does.

13 MR. CARDANI: Offer AK-2.

14 MR. WAX: Objection on relevance  
15 grounds, Your Honor.

16 THE COURT: Received.

17 BY MR. CARDANI:

18 Q. Now, AK-2, if we could show that to the  
19 jury, is that the face page of this pamphlet?

20 A. Yes.

21 Q. If you could go one page -- there's a  
22 table of contents and that lists areas of the world  
23 that you do in your work, Palestine, Afghanistan,  
24 and then Chechnya and Ingushetia.

25 A. Those are some of the places, yeah.

1 Q. If we could go two more pages up, and  
2 there's a reference here to emergency relief  
3 projects --

4 A. Yes.

5 Q. -- including Afghanistan, Chechnya, Congo,  
6 and the Palestine, total beneficiaries over 700,000.  
7 Is that dollars or people?

8 A. People.

9 Q. That you've helped?

10 A. Yes. In that year alone.

11 Q. And then down below, Ramadan projects?

12 A. Yes.

13 Q. Several areas of the world, conflict  
14 zones, but includes Chechnya where you've helped  
15 over half a million beneficiaries?

16 A. Yes.

17 Q. And down below, could you describe what  
18 these projects are. I don't know how to say them or  
19 what they are.

20 A. Oh, Qurbani projects is meat distribution.

21 Q. What?

22 A. Meat. Meat distribution. We believe in  
23 the Qur'an that the prophet Abraham was willing to  
24 sacrifice his son for God, and instead of giving his  
25 son, he instead sacrificed an animal, so that's

1 still practiced in the Muslim law. And we encourage  
2 to donate at least one-third of that to charity, but  
3 in America we're encouraging the Muslims here to  
4 donate 100 percent to charity.

5 So often this is a source of protein that  
6 children get in refugee camps. In many parts of the  
7 world it's the only time they're going to eat meat  
8 the whole year.

9 Q. And is this saying that you helped feed 1  
10 million people in these areas of the world during  
11 this time?

12 A. Yes.

13 Q. And then off to the left, health and  
14 nutrition projects --

15 A. This was actually demarked for Islamic  
16 Relief Worldwide. That was the whole family of  
17 Islamic Relief.

18 Q. Yeah?

19 A. Not just what we did in the U.S.A.

20 Q. Understand. And that involved Chechnya?

21 A. Yes.

22 Q. And then health and nutrition projects  
23 involves Chechnya where you helped 234,000 people?

24 A. Yes.

25 Q. If we go three more pages up, and I see

1     that Chechnya is a -- is featured as a country focus  
2     here.

3             A.       Yes.

4             Q.       And without reading the whole thing, it  
5     talks about the -- in October 1999 hostilities  
6     erupted anew in Chechnya and thousands of Chechens  
7     were forced to flee across the border into  
8     Ingushetia and IRW was one of the first aid agencies  
9     to respond to the needs of the displaced Chechens.  
10    Is that right?

11            A.       Yes.

12            Q.       It talks about your activities that you  
13    were doing down here, but this break-out section on  
14    Chechnya, it talks about you directly helping  
15    101,000 refugees that were involved in that  
16    conflict.

17            A.       That is all of the Islamic Relief  
18    together, and our contribution from the U.S. was  
19    \$646,000.

20            Q.       Okay. That's off to the right, yeah. We  
21    could block all that up.

22                    So total Islamic Relief, U.S.A.  
23    allocations, projects in Chechnya, over \$600,000.

24            A.       Yes.

25            Q.       And if we could go a little bit up top

1 now, this picture here says it's a Chechen boy  
2 receiving a food pack in a Sputnik refugee camp in  
3 Ingushetia?

4 A. Yes.

5 Q. And the box that he's holding right there,  
6 is that the type of work that your organization was  
7 doing in Ingushetia?

8 A. Yes.

9 Q. Distributing food boxes and kits?

10 A. Yes.

11 Q. And down below what's this 18-wheeler  
12 here?

13 A. This is one of the lorries that was  
14 carrying the food parcels. We at this time had an  
15 agreement with the U.N. World Food Program. We were  
16 partnering with them, and we were feeding, as you  
17 can see, over 100,000 people we were helping at that  
18 time. So we needed a fleet -- convoy of trucks to  
19 distribute the aid.

20 Q. And if we could go further towards the  
21 end, there's a management report. Why is this  
22 report put out?

23 A. Where is it?

24 Q. This annual report, this whole book. Why  
25 does IRW even distribute this?

1           A.       Oh, we did this to inform our donors and  
2       to inform the general public. It's extremely  
3       important that people know where their money is  
4       going, so every year we produce an annual report,  
5       which has a financial breakdown in the end, but it  
6       also mentions the projects and gives people a flavor  
7       of the work that we do.

8           Q.       And you mentioned earlier that it's  
9       important to keep good records to show that you're  
10      really doing what you say with the money that you  
11      raise?

12          A.       Yes.

13          Q.       And here we see a management report  
14      talking about revenue in 2000 of over \$5 million.  
15      Do you see that on the -- look on the screen, sir,  
16      to your right.

17          A.       Yes, yes.

18          Q.       Okay. And then scrolling it down, there's  
19      some pie charts here, and it gets into pretty good  
20      details about the breakdown of where the money is  
21      actually going.

22          A.       Yes.

23          Q.       And the last page I want to talk to you  
24      about is the next one. Do you have your annual  
25      statements and your records officially audited?



1 A. Yes.

2 Q. And that requires you to spend a lot of  
3 money hiring CPAs to dig into the books to make sure  
4 that you did what you said you were going to?

5 A. Yes.

6 Q. And is this a statement of the auditors at  
7 the end saying that they're satisfied after this  
8 detailed review that you have accomplished your  
9 mission?

10 A. Yes.

11 Q. Now, how would the auditors and  
12 accountants know that you're doing the things that  
13 you say you are with the money?

14 A. That's not my area. I'm a fund-raiser.  
15 You'd have to ask the lawyers and our accountants.

16 Q. Okay. And I think that's the point, sir,  
17 is that you have a series of lawyers and accountants  
18 that your organization works with to help make sure  
19 that you're getting it just right with the IRS, for  
20 example?

21 A. Yeah. We have our in-house lawyers, we  
22 have our in-house accountants, and then when we do  
23 the audit, it's done by outside accountants, and we  
24 also have other lawyers, as well.

25 MR. CARDANI: Mr. Khan, that's all I

1 have for you. Thank you.

2 THE COURT: Redirect?

3 MR. WAX: Yes. Thank you, Your Honor.

4 REDIRECT EXAMINATION

5 BY MR. WAX:

6 Q. Mr. Khan, just a couple more questions.  
7 You're clearly part of a very large charitable  
8 organization.

9 A. Yes.

10 Q. Have you experienced differences in the  
11 quality of recordkeeping between large organizations  
12 such as yours and others that operate on a much  
13 smaller scale?

14 A. Yes.

15 Q. Al-Haramain Saudi Arabia, there's been  
16 testimony in this case that the al-Haramain Saudi  
17 Arabia charity operated in 40 or 50 countries, and  
18 worldwide had a budget of some 60 or \$70 million.

19 Did you look for a similar report in Saudi  
20 Arabia published by al-Haramain reporting on its  
21 activities in its home country?

22 A. No.

23 MR. WAX: Thank you. I have no  
24 further questions.

25 THE COURT: Thank you. You may step

1 down. Thank you, sir. You're excused.

2 Your next witness, please.

3 MR. MATASAR: Jeff Cone.

4 (The witness was sworn.)

5 THE CLERK: Please have a seat.

6 Please speak into the microphone. There's water  
7 here if you're thirsty.

8 Please state your name, then spell  
9 your name for the record.

10 THE WITNESS: My name is Jeffrey A.  
11 Cone, J-E-F-F-R-E-Y, A, C-O-N-E.

12 DIRECT EXAMINATION

13 BY MR. MATASAR:

14 Q. Mr. Cone, what do you do professionally?

15 A. I'm a CPA, been one since 1979. Then I  
16 joined International Accounting Firms and was with  
17 them for ten years. And then in 1992, I formed --  
18 yes. In 1992 I formed my own company and moved up  
19 here and have been doing litigation consulting.

20 Q. Okay. Anything else you do? You work  
21 with computer programming and such?

22 A. Yes. I'm a forensic accountant focusing  
23 on forensic investigations of both accounting and  
24 data, and I've been doing that mostly since nineteen  
25 -- actually, I started doing that in 1998, and I've

1       been doing that ever since.

2           Q.       And when you say a forensic accountant, do  
3       you have tools that you use or do you --

4           A.       Yes.

5           Q.       -- created that assist you in your  
6       forensic accounting?

7           A.       Yes. I've developed various software  
8       tools that do assist me with the accounting -- with  
9       doing forensic investigations. And we'll talk about  
10      one of those later.

11          Q.       And how do you spend most of your time,  
12      say, in a year? What percentages doing what?

13          A.       Probably 50 to 60 percent, I would guess,  
14      would be forensic accounting, that investigation  
15      area. And the rest of it, you know, is some  
16      administrative obviously. And then also I do just  
17      regular software development for clients that needed  
18      to and --

19          Q.       And you work on civil and criminal  
20      matters --

21          A.       Yes, I do.

22          Q.       -- in your forensic line --

23          A.       Uh-huh.

24          Q.       What did we ask you to do on this case?

25          A.       You asked me, first of all, to identify

1 out of a collection of files that were provided to  
2 me by the public defender's office. A collection of  
3 what I'd call the relevant QuickBooks files, first  
4 of all. Then I was asked to retrieve both the data,  
5 you know, that the user had entered, and the  
6 metadata that the computer system or QuickBooks  
7 creates about data inside the data. Okay.

8 Then I was also asked to analyze the  
9 QuickBooks files, and then to analyze the accounting  
10 -- the other accounting information in al-Haramain's  
11 work papers -- I mean al-Haramain's accounting  
12 information -- and then to review Mr. Wilcox's work  
13 papers.

14 Q. So during the course of the work on this  
15 matter, were you given various QuickBooks files?

16 A. Yes, I was.

17 Q. Okay. And what -- you were given distinct  
18 files. What were the ones that you were given?

19 A. Well, I was given a whole number of files,  
20 but what I did find is three distinct QuickBooks  
21 files that related to this particular case. And  
22 they are the -- there is -- the first one was one  
23 dated -- I call it the May 14th, 2001, file.

24 And this is a file Mr. Seda emailed to  
25 Mr. Wilcox, and he also emailed this one to

1 Mr. Shoumar on June 12, 2001. This is -- that's  
2 consistent with the work that al-Haramain had done  
3 in terms of entering checks and two deposits.

4 Q. And the second file was what?

5 A. Was one dated June 13th, 2001, where  
6 Mr. Wilcox provided a floppy disk to Mr. Seda.

7 Q. And the third file?

8 A. Was a -- it was a file that the activity  
9 ended on October 2nd, 2001, but it was emailed by  
10 Mr. Wilcox to Mr. Seda on January 7th, 2002.

11 Q. And that was the primary file that you  
12 used for most of the -- for all of the work you're  
13 going to testify about?

14 A. Virtually all the work really came from  
15 that last file.

16 Q. And you're also an auditor, you say. So  
17 you looked at Mr. Wilcox's work papers?

18 MR. CARDANI: I'm sorry. I missed the  
19 date on that, the transmission of the third one.

20 THE WITNESS: Was -- I believe it was  
21 January 7th, 2002.

22 MR. CARDANI: And that was from  
23 Mr. Wilcox to Mr. Seda?

24 THE WITNESS: Yes. From Mr. Wilcox to  
25 Mr. Seda with the last activity as of October 2nd,

1 2001, so there's about a three-month gap there.

2 BY MR. MATASAR:

3 Q. Okay. And so you're saying it was  
4 transmitted in January of 2002, but the last work  
5 was done in October of 2001.

6 A. Yes.

7 Q. And that's the primary file you used.

8 A. That is the primary file. Turned out to  
9 be, yes.

10 Q. So how did you identify -- you just  
11 mentioned the last date of activity --

12 A. Yes.

13 Q. -- in this QuickBooks file. How did you  
14 identify that?

15 A. Identified that using what is called  
16 metadata. You know, QuickBooks keeps inside of it  
17 or tracks inside of it the date and time a record  
18 was both created and it was last modified.

19 And so using some of the software tools I  
20 developed, I was able to retrieve all that data out  
21 of the QuickBooks files, do a sort, see what the  
22 last date was.

23 Q. Tell the jury a little bit -- I mean if  
24 you put information in a program, let's say you're  
25 typing a letter, and you write, "Dear John" or

1     you're doing a spreadsheet, and you add one, two,  
2     three, four, five. That's the data that the user  
3     enters into a computer program. Right?

4             A.     That is correct, yes. You also --

5             Q.     What's the difference --

6             A.     I'm sorry. Go ahead.

7             Q.     What's the difference between that data  
8     and metadata?

9             A.     Okay. So metadata is data about data.  
10     Okay. So start -- I think a good example would be  
11     you have quick -- you're doing a little Word file  
12     and you type in a letter to your mom. And you type  
13     it in, and you start typing it. Well, as Word  
14     creates the file, it's creating information about  
15     that, what you're doing. It's keeping track of the  
16     moment you created it. It's keeping track of who  
17     the author is. It's keeping track of how many words  
18     you've typed. It keeps track of what the last date  
19     it was printed, things like that. There's a wealth  
20     of information. Some of it you can see, some of it  
21     you don't -- the program doesn't let you see because  
22     you don't really need to see it often.

23             Q.     Okay. So sometimes users themselves can  
24     see the metadata.

25             A.     Yes.



1 Q. And can they edit it?

2 A. Sometimes they can. For example, in Word,  
3 there's a way to enter a description of the document  
4 that's not printed as part of the document, but it's  
5 something that you can put in there to remember why  
6 you wrote the document. If you wanted to. It's not  
7 very often used, I don't think, but it's there if  
8 you want to edit it.

9 Q. And some metadata cannot be changed by the  
10 user.

11 A. Yes. That's right. The time created, no  
12 matter how much you might want to change that in a  
13 Word file, you can't change it.

14 Q. And what about in QuickBooks --

15 A. It's the same --

16 Q. Could you change the time a document was  
17 created?

18 A. Well, you can't change it. I think you  
19 meant the time that a record was created.

20 Q. A record was created.

21 So QuickBooks -- so Word creates that time  
22 created for the whole file. In QuickBooks each  
23 accounting record is -- has its own unique creation  
24 date and modified date.

25 A. (No audible response.)

1 Q. Okay.

2 A. And no, it can't be changed. I want to  
3 make sure at that point.

4 Q. Okay. So I'm going to show an exhibit  
5 that's been admitted, 755.7.

6 A. All right.

7 MR. MATASAR: Well, this exhibit, do  
8 we have a substituted version?

9 (Indistinct speaker.)

10 MR. MATASAR: The substituted version  
11 is in.

12 (A discussion was had off the record.)

13 MR. MATASAR: All right. Your Honor,  
14 why don't we not publish it to the jury yet, and  
15 let's see if I can see the first page of 755.7.

16 THE COURT: Members of the jury, that  
17 word "published" just means show it to you.

18 MR. MATASAR: Sorry.

19 THE COURT: It's all right. It's not  
20 complicated. Only lawyers.

21 MR. MATASAR: Okay, Your Honor, this  
22 has been admitted. This is the substituted version  
23 so we can show it to the jury now.

24 THE COURT: Thank you.

25 MR. CARDANI: Publish it to the jury.

1 BY MR. MATASAR:

2 Q. So you see that on your screen, Mr. Cone?

3 A. Yes, I do.

4 Q. Could you identify what this document is?

5 A. Yes. This is the audit trail from -- that  
6 was provided to me by the public defender's office,  
7 which I believe -- I understand that it got --  
8 received from the government, that is of -- that  
9 matches up with the October 2nd, 2001, QuickBooks  
10 file. And I believe it was printed from that file  
11 because I printed the schedule from that same file  
12 that looked exactly like this.

13 Q. Okay. So let me maybe blow up the top  
14 left part --

15 A. Yes.

16 Q. -- and ask if you if there's any metadata  
17 on this report.

18 A. Yes. The metadata on this report -- I can  
19 touch this. Right?

20 Q. Yes.

21 A. It's right there (indicating).

22 Q. And what does that show?

23 A. It tells us that this -- that record was  
24 entered or last modified on April 22nd, 2001, at  
25 18:44:38, which is, of course, military time for six

1 o'clock, or 6:44.

2 Q. Now, does that 6:44 reflect the time the  
3 transaction was entered or last modified at the  
4 place where it was entered or at the place where it  
5 was printed?

6 A. It's interesting. It's at the place it  
7 was printed.

8 Q. Okay. So if, for example, this document  
9 was -- this record -- is that what you would call  
10 it?

11 A. We'd call it this record, right.

12 Q. 9/4/01?

13 A. Right.

14 Q. So if this record was entered in Oregon at  
15 15:44:38 --

16 A. Yes.

17 Q. -- and printed in, say, Washington or New  
18 York even years later -- even years later, it would  
19 say 18:44?

20 A. That's correct.

21 Q. And have you -- are you sure of this? How  
22 do you know that this is the case with this  
23 particular document?

24 A. I printed out this exact same schedule on  
25 my computer in Oregon and the exact same record

1 shows up exactly three hours different. I mean down  
2 to the second, 44:38. So I became very convinced of  
3 that, yeah.

4 Q. All right. So, Mr. Cone, from this  
5 report, can you tell when the transaction, this,  
6 say, 9/4/01 was first entered into QuickBooks?

7 A. No, you really can't.

8 Q. What does that 18:44:38 tell you?

9 A. That tells me that the last moment, down  
10 to the second, of when somebody actually last  
11 changed it. Now, if they've never changed it, it  
12 would be the same as creation, but I can't tell it  
13 from this.

14 Q. Does the QuickBooks program provide a way  
15 -- the program itself -- provide a way to see the  
16 date that a document -- a record was first entered?

17 A. No, it does not.

18 Q. However, it stores that information, the  
19 date it was first entered?

20 A. That is correct.

21 Q. And how does it store it?

22 A. Stores it as a field just like it stores  
23 the last modified date. So if you look at the --  
24 when I use the -- shall I go into the tool --

25 Q. No, no. Just first let me ask you. It

1 stores it.

2 A. Yes.

3 Q. And it's a kind of metadata that you were  
4 talking about?

5 A. Yes. Exactly. It's a metadata field,  
6 yes.

7 Q. So it's somewhere inside the program, but  
8 the user using QuickBooks can't cull it out.

9 A. Yes. That is correct.

10 Q. Okay. So how is it that you can go deeper  
11 into the QuickBooks program to see this information?

12 A. Yes. There's -- the manufacturers of  
13 QuickBooks also have produced or allowed or  
14 distribute, let's call it, a product called an SDK  
15 or software developer kit, that allows programmers  
16 to interact with QuickBooks, retrieve data, actually  
17 update, you know, pieces of information that are  
18 allowed.

19 But what I did is I got my hands on this  
20 QuickBooks software developer kit and figured out  
21 how to program it so that I could then ask  
22 QuickBooks to send me all the information inside a  
23 QuickBooks file that I needed. And when I did that,  
24 I was able to retrieve both the time created and the  
25 time last modified, as well as other metadata about

1 -- you know, the data and metadata that was in for  
2 each record.

3 Q. So let me first ask, this SDK that you  
4 mentioned, software developers kit, is that a common  
5 thing used for -- throughout the computer industry?

6 A. Yes.

7 Q. So there might be one for Excel, there  
8 might be one for Word, there might be one for iTunes  
9 or whatever --

10 A. I wouldn't say --

11 Q. iPhone --

12 A. The various programs can -- a programmers  
13 -- a program -- the manufacturers of the program can  
14 decide to distribute it, you know, and sometimes use  
15 that term, sometimes don't, but --

16 Q. And sometimes they sell it?

17 A. Sometimes it's sold, yes.

18 Q. And did you develop your own program to --  
19 with the SDK --

20 A. Yes.

21 Q. -- the software developers kit to get at  
22 this information inside -- deep inside QuickBooks?

23 A. Yes, I did.

24 Q. Okay. What did you call your program?

25 A. I called my program QuickBooks viewer.

1 Q. Okay. And do you market that?

2 A. No, I don't.

3 Q. Maybe someday or not --

4 A. Someday.

5 Q. So what does it do, the QuickBooks viewer?

6 A. The QuickBooks viewer basically goes  
7 through and it goes through all the objects that the  
8 SDK allows or publishes, let's call it, that you can  
9 access, and I just draw every piece of information I  
10 can out of QuickBooks just so that I have a tool  
11 that I can now forensically look at the information  
12 inside of QuickBooks and present it in a way that  
13 would be useful to investigators in forensic  
14 environments.

15 Q. And you processed with the QuickBooks  
16 viewer the files that we've talked about earlier.

17 A. Yes.

18 Q. Okay. And using this viewer, are you able  
19 to create a report that would look just like the  
20 audit trail, except add some of the additional  
21 fields that are in the metadata?

22 A. Yes.

23 Q. Okay. Now, I'd first like to show to the  
24 Court and counsel 755.8.

25 Now, Mr. Cone, you've compared this to the



1 755.7?

2 A. Yes. The --

3 Q. The audit trail.

4 A. Yes, I have.

5 Q. Okay. And is it your opinion that this is  
6 the same as that -- same data except it also  
7 includes a column for the time the transaction was  
8 created?

9 A. Yes. It's -- well, it's identical for  
10 that except for two things. One, I added the last  
11 modified date --

12 Q. Which is already -- isn't that already in  
13 it?

14 A. Yeah. The created date and the time  
15 modified date as two separate fields.

16 Q. Okay.

17 A. I also added a unique -- or the  
18 transaction number, which QuickBooks assigns to each  
19 transaction that is entered, which by default is not  
20 included on the audit report, but it's something  
21 that you can get to from within the QuickBooks  
22 software.

23 I did notice one other slight change, and  
24 the original audit trail does have a status field --  
25 I believe it's called a status field -- that I have

1 not included on mine because it doesn't add any  
2 meaningful information.

3 Q. Well, let me ask you about the transaction  
4 number. Every time you do something in QuickBooks,  
5 the program assigns a sequential transaction number.  
6 Is that correct?

7 A. That is correct.

8 Q. And you can't change that.

9 A. Nope.

10 Q. Okay. So if you put in, let's say,  
11 Transaction No. 523, and it's a check for \$200 to  
12 John Smith, and that's given that transaction  
13 number, when you want to wipe that off QuickBooks --

14 A. Uh-huh.

15 Q. -- you can't do that. That transaction  
16 number stays there.

17 A. Right. If you want -- you could delete  
18 that transaction --

19 Q. Right.

20 A. -- but then -- the next transaction you  
21 would add, it would put the next number in, I  
22 believe.

23 Q. So there would be a --

24 A. There'd be a gap.

25 Q. -- missing number.

1           A.       Yes.

2                   MR. MATASAR:   Okay.   Your Honor, I'd  
3   move for the admission of 755.8.

4                   MR. CARDANI:   We're having trouble  
5   finding our copy of that.   Can we get a copy of that  
6   and take a look at it?

7                   (A discussion was had off the record.)

8                   THE COURT:   Members of the jury, I  
9   think we'll take a short break.   All right.

10                   (Jury absent.)

11                   THE COURT:   I'm sorry to interrupt,  
12   Counsel.   We're losing the jury.

13                   MR. MATASAR:   I lost the flip on this  
14   case, Your Honor, and that's how it's going to go.  
15   I'm sorry.   No gore and guts for me.   What can I  
16   say?

17                   THE COURT:   I'd get to your stuff you  
18   want to say.   You make your own decision.

19                   MR. CARDANI:   We do have one matter to  
20   talk about before the next witness.   Is Mr. Long  
21   next?

22                   MR. WAX:   Yes.   Long is next.

23                   MR. CARDANI:   Okay.   I think  
24   Mr. Gorder wants to be heard.

25                   MR. GORDER:   Your Honor, just before

1 we started after the lunch break, Mr. Wax indicated  
2 that if -- that he does intend to have Long talk  
3 about these Saudi receipts that are not in evidence.  
4 And, you know, we intend, you know, to question him  
5 about the credibility in light of the designations  
6 of al-Haramain. And he suggested he's going to nail  
7 a lot of facts about the evidence, so I wanted to  
8 bring that to the Court's attention now rather than  
9 in the middle of cross-examination.

10 THE COURT: Mr. Wax?

11 MR. WAX: If I heard you correctly,  
12 Your Honor, you indicated that you believed that the  
13 door had been opened to the government going into  
14 the designation through Colonel Lang's testimony.

15 In light of that, it seemed to me that  
16 I have -- well, I object to that ruling that I have  
17 no choice, particularly because Mr. Cardani spent so  
18 much time with Mr. Owens insinuating that there was  
19 a theft of \$21,000 orchestrated by Mr. Seda and  
20 Mr. al-But'he, and to argue that the \$21,000 was  
21 diverted into Mr. al-But'he's personal account when  
22 the government is fully aware that Mr. al-But'he  
23 received a receipt from the al-Haramain organization  
24 on March 14 and March 28th for \$187,000, and that  
25 receipt has Account No. 9889 for the Al Rajhi Bank

1 and they didn't bother to get it is entirely  
2 inappropriate.

3 That having been done and having been  
4 permitted, I don't see that we have any choice but  
5 to be permitted to go into the existence of these  
6 receipts in detail. The fact of the designation, it  
7 seems to me, Your Honor, is completely irrelevant to  
8 that issue. Moreover, the designation has been  
9 challenged and the designation is not final.

10 The designation case is on appeal in  
11 the 9th Circuit, and I don't believe that it would  
12 be appropriate to inform the jury about the  
13 designation. Then we have to inform the jury that  
14 the designation has been appealed and it's not  
15 final.

16 Moreover, the challenge to the  
17 designation has been proceeding without the lawyers  
18 for al-Haramain having the opportunity to review  
19 classified material. And what we believe we would  
20 be able to do far more effectively than they is to  
21 present the case as to why that designation is  
22 inappropriate.

23 Finally, the designation of  
24 al-Haramain that took place and the designation of  
25 Mr. al-But'he was specifically done without a

1 designation of my client, the person at issue here.

2 So for all those reasons, we do not  
3 believe that the government should be permitted to  
4 do it. We believe that they have required us to go  
5 forward with this evidence to come back with an  
6 inference they are asking the jury to draw that is  
7 contrary to facts that are in their possession and  
8 contrary to facts that they could have obtained, but  
9 chose not to. That's the issue.

10 THE COURT: All right. I think we're  
11 going to be forced to have a secured little session,  
12 so we'll do that in a few minutes.

13 (A recess was taken.)

14 (Closed session was held.)

15 MR. MATASAR: Your Honor, now that  
16 Mr. Cardani's seen 755.8, we would move for its  
17 admission.

18 MR. CARDANI: No objection.

19 THE COURT: Received.

20 MR. MATASAR: Why don't you just show  
21 that to the jury again.

22 BY MR. MATASAR:

23 Q. So, Mr. Cone, you see this is the audit  
24 trail emulation that you prepared. It's got that  
25 created date and the transaction date. Could you

1 just mark those on the screen or maybe circle them  
2 over there on the left.

3 A. There is the created date and last  
4 modified is right next to it.

5 Q. And right to the left of your red line is  
6 the transaction number.

7 A. Correct. Right there (indicating).

8 Q. Now, Mr. Cone, using the metadata in the  
9 QuickBooks files, have you also been able to  
10 identify the periods of data entry activity?

11 A. Yes, I have.

12 Q. And about -- so that means the times that  
13 people that were entering into QuickBooks?

14 A. Yes.

15 Q. Okay. Have you prepared a demonstrative  
16 exhibit showing these periods on a simple timeline?

17 A. Yes, I have.

18 Q. Okay. Let me show the Court and counsel  
19 1064. And that's a timeline showing the time that  
20 data was entered in QuickBooks?

21 A. Yes, it is.

22 MR. MATASAR: Okay. Move for  
23 demonstrative purposes that 1064 be admitted.

24 MR. CARDANI: With those restrictions,  
25 no objections.

1 THE COURT: Received.

2 BY MR. MATASAR:

3 Q. So, Mr. Cone, could you just describe this  
4 chart?

5 A. Sure. You can see there on March 30th the  
6 QuickBooks file was started. Now, I want to make  
7 clear, the QuickBooks file we're talking about is  
8 different versions of the very same file. It's not  
9 brand-new files each time. So they started the file  
10 on March 30th, but didn't do really anything about  
11 it. They just created one account, not really even  
12 any transactional data.

13 Finally on 4/16 -- between 4/16 and May  
14 14th, al-Haramain recorded 516 checks and two 2000  
15 year deposits.

16 Q. Okay. And then nothing much happened  
17 until May 30th?

18 A. That's correct. When -- and May 14th we  
19 know is also the date that it was emailed by  
20 Mr. Seda to Mr. Wilcox.

21 Q. Okay. So Mr. Wilcox then entered data on  
22 5/30 through 6/13, which is on the bottom?

23 A. That's correct. And he entered 25  
24 reconciling items which comprised 66 bank items, and  
25 there were also six other entries.



1 Q. And then September 19th to October 2nd?

2 A. Right. Nothing was done on the file  
3 between -- until then. And then on September 19th,  
4 he then does the year 2000 work for that tax return  
5 making those types of entries.

6 Q. So, Mr. Cone, you showed us the audit  
7 trail you prepared, 755.8.

8 A. Uh-huh.

9 Q. Could the QuickBooks viewer produce all  
10 the reports, just like QuickBooks does, just pick  
11 and choose things that you think are most important  
12 to help you understand the file?

13 A. Yes. I could, yes.

14 Q. And so did you make one of the Springfield  
15 building schedule?

16 A. Yes, I did.

17 Q. Okay. Could you show -- I believe this is  
18 -- well, let me just not publish it to the jury.  
19 This is 1065.

20 Okay. So these are the items coded to  
21 Springfield building?

22 A. Yes.

23 Q. Okay. From your file and your QuickBooks  
24 viewer.

25 A. Yeah. As printed by my QuickBooks viewer.

1 This is the same information as in QuickBooks, yes.

2 MR. MATASAR: So I'll move for the  
3 admission of 1065.

4 MR. CARDANI: If I may have a moment.

5 (A discussion was had off the record.)

6 MR. CARDANI: Thank you. No  
7 objection.

8 MR. MATASAR: Show it to the jury  
9 then?

10 THE COURT: What was the number again?

11 MR. MATASAR: Defense 1065.

12 THE COURT: Thank you. It's received.

13 BY MR. MATASAR:

14 Q. So what I'd like to show you also is on  
15 the same screen an exhibit that we have a number of  
16 42345 but it's really TW-2, Springfield building  
17 schedule, and I'd like to show those on the screen  
18 at the same time.

19 A. All right.

20 Q. So while we're doing that, Mr. Cone, can  
21 you describe the difference between your emulation  
22 version of the schedule, which is on the top  
23 there --

24 A. Right.

25 Q. -- 1065 and the Springfield building

1 schedule on the bottom?

2 A. The main differences are I've added this  
3 -- I blocked it out -- the transaction number, the  
4 time created, and the time modified. I just wanted  
5 to make sure it's clear. When I have a little arrow  
6 by the time modified, that means it's identical to  
7 the time created, which then means that record was  
8 never edited.

9 Q. Okay. And so there's an extra item, is  
10 there not, in your schedule?

11 A. Yes. I have added the -- what -- on my  
12 schedule, as it also appears in QuickBooks, the 9/15  
13 \$4,000 entry to Islamic Center Springfield.

14 Q. So can you describe how QuickBooks itself  
15 -- look at 42345, Mr. Wilcox's, working papers.

16 A. Yes.

17 Q. Got a time there. How was that created by  
18 Mr. Wilcox?

19 A. So Mr. Wilcox would have created this by  
20 going into the QuickBooks program and picking out  
21 the report generator, and then specifying that he  
22 wanted all of the transactions for the Springfield  
23 account, the Springfield building -- you can see  
24 that right there, okay -- and that were through or  
25 as of -- on or before December 31st, 2000.

1 Q. So --

2 A. The date of this report here. Go ahead.

3 Q. So why is the \$4,000 that's on yours not  
4 on Mr. Wilcox's?

5 A. There's two reasons. Well, actually --  
6 the reason is, is because at the time that  
7 Mr. Wilcox printed this schedule -- see right here,  
8 I'm blotting it out unfortunately -- this check was  
9 actually -- had been recorded as being in the wrong  
10 year. It had been recorded in 2001. And I think we  
11 have an exhibit to show that --

12 MR. MATASAR: Which is 1238-E, which  
13 is also 755 -- just show it to the witness. And if  
14 you can enlarge the top part of it.

15 BY MR. MATASAR:

16 Q. Okay. This comes from Mr. Wilcox's  
17 working papers. Right?

18 A. Yes, it does.

19 MR. MATASAR: Well, I move it in for  
20 it's admission, Your Honor. I think it will help  
21 the jury understand this. I don't think we need any  
22 further authentication.

23 MR. CARDANI: Yeah. I don't object to  
24 that.

25 THE COURT: Received.

1 BY MR. MATASAR:

2 Q. Mr. Cone, do you see a \$4,000 check there?

3 A. Yes. See it right here.

4 Q. And do you see anything unusual about that  
5 check?

6 A. Well, you can see that it's circled in  
7 red, which I believe Mr. Wilcox did. And it's --  
8 you can see the date is 9/15/2001. So when  
9 Mr. Wilcox printed the schedule out, as of -- I  
10 think it's ten o'clock -- something like ten o'clock  
11 -- at that moment inside QuickBooks, that check was  
12 dated 9/15/2001, so it was excluded from the  
13 Springfield schedule that he had printed out.

14 Q. Because he was printing out -- he was  
15 doing the 2000 tax return. Right?

16 A. Yes.

17 Q. So he wanted to know everything that had  
18 to do with the year 2000?

19 A. That's correct.

20 Q. And he had mistakenly coded this as 2001,  
21 so when he told it to print it out on 42345, we  
22 could show that if --

23 A. TW-2.

24 Q. Right. It didn't include it?

25 A. That's correct.

1 Q. So at the time this was printed out by  
2 Mr. Wilcox, he had really already coded it?

3 A. That's correct. If we could go back to  
4 the -- to my emulation.

5 Q. Now, could you determine if you looked  
6 at -- hold on a second.

7 Can you determine when the \$4,000 was  
8 first coded?

9 A. Yeah. If we could go back to my emulation  
10 of the Springfield report.

11 Q. Yeah. Okay.

12 A. Show that again.

13 Q. Why don't we look at 755.7. This is  
14 yours, okay.

15 A. If you go ahead and highlight the top  
16 part, you see on that 4,000 on the -- maybe  
17 highlight the fourth row down -- can you do that?

18 And then you can clearly see that the time  
19 created is on 9/20/2001, four days before he printed  
20 the Springfield schedule. And that he modified it  
21 at 9/24 at 14:06. Now, we have to be careful with  
22 that time. That 14:06 is what is known as Pacific  
23 standard time, and it gets confusing because the SDK  
24 retrieves the data in standard time even though  
25 daylight time is effective, the QuickBook reports

1 are all reflecting daylight time. This is standard  
2 time, so you have to mentally convert it.

3 Q. Okay. So let me show you -- so we know  
4 Wilcox coded it on the 20th.

5 A. Yes.

6 Q. Let me show you the audit trail that he  
7 looked at.

8 A. Yes.

9 Q. That's 755.7, page 48. We know he coded  
10 it on the 20th.

11 A. Yes.

12 Q. But what I want to ask you is -- let's  
13 look at this. And maybe highlight the second line.  
14 Okay. If somebody were looking at the audit trail  
15 and they didn't know anything about metadata and  
16 they were trying to figure out when they coded the  
17 \$4,000 item, might they have picked -- and they  
18 didn't know, as I said, anything about metadata --  
19 they might have chosen 9/24/2001 as the time they  
20 first coded that item?

21 A. Yes. That is a distinct possibility  
22 because the label on that column also says  
23 Entered/Last Modified. And as we talked about,  
24 somebody looking at it wouldn't necessarily know  
25 whether they had made any modifications.

1 Q. Correct. So somebody who didn't know as  
2 much as you know about QuickBooks and were asked  
3 when they first coded it, they'd pick this time?

4 A. Yes.

5 Q. But that would be wrong because we know it  
6 was coded and entered on 9/20.

7 A. That is correct.

8 Q. Now, you've also mentioned that you  
9 prepared a schedule -- let's show the witness  
10 755.13. What is this document? Can you identify  
11 what this is?

12 A. This is another report I printed for my  
13 QuickBooks viewer. It is a listing of all the  
14 activity where Mr. Wilcox created a record from  
15 September 19th through September 24th, 2001.

16 MR. MATASAR: Okay. I'll move for the  
17 admission of 755.13.

18 MR. CARDANI: If we could take a look  
19 at it. We have it. I just want to look at it.

20 (A discussion was had off the record.)

21 MR. CARDANI: No objection.

22 THE COURT: Received.

23 BY MR. MATASAR:

24 Q. This essentially shows Mr. Wilcox's work  
25 flow, what he's doing every few seconds, every few



1 minutes?

2 A. Yes.

3 Q. Within QuickBooks. It doesn't show he's  
4 -- it just shows QuickBooks.

5 A. Just shows QuickBooks.

6 Q. Okay. In general, what can you tell us  
7 about his schedule as he's working?

8 A. If you -- first of all, if you look down  
9 the transaction dates, you can see the transaction  
10 dates are fairly chronological. He starts on 1/28  
11 and then -- 1/28, then 1/28, 1/31, and then there's  
12 -- starts in February and then March and the  
13 impression certainly is that he was just going  
14 through the bank reconciliations entering all the  
15 activity that al-Haramain had not entered for the  
16 2000 time frame.

17 Q. Okay. So those are the dates that he  
18 entered from the transaction.

19 A. Right.

20 Q. The time that he is actually doing this  
21 would be the first column. Is that correct?

22 A. Yes, the first column. So, for example,  
23 what I've done here -- I will chart here, and I'll  
24 just read it off to you is -- I took a look at the  
25 time frames between each entry. If you start with

1 the February 29th entry, which is the fourth one  
2 down, which is labeled 558 --

3 Q. Sorry. That would be Transaction No. 558?

4 A. Yes.

5 Q. Okay. Maybe we can start there and then  
6 the jury can follow down there and read while you're  
7 doing this.

8 A. Well, the next record down, he's entered  
9 -- he saved -- this is the moment that he presses  
10 save. You know, when you're working with data, you  
11 usually have to press save --- and that's the case  
12 with QuickBooks.

13 So the next one down he created in four  
14 minutes and two seconds later. Okay. If you do the  
15 math, I think it works out. 560, the next one down  
16 is created 40 seconds after the prior one. The next  
17 one, which is now the first record in March, so if  
18 you're thinking about his work flow, he would have  
19 -- Okay, I'm done with February. Maybe put it on  
20 the QuickBooks reconciliation like we say. Then he  
21 would have then started March and so then he does  
22 the next one. Okay.

23 Well, 562 is done two minutes and 11  
24 seconds later, so that is the \$5,200 deposit there.  
25 563 is done two minutes and 35 seconds after that,

1 and then the last entry for March is done four  
2 minutes and two seconds after that. So my  
3 impression is that, you know, he's just going  
4 through these pretty rapidly.

5 Q. And transaction No. 563 is also the first  
6 item shown in the Springfield building schedule, is  
7 it not, the --

8 A. Yes.

9 Q. -- \$131,000 check?

10 A. It is. In fact, we also note from another  
11 report that he created -- as part of entering this,  
12 he created the Islamic -- the fixed asset account,  
13 that he actually had to go through the little --  
14 there's a few minor steps you have to go to, to  
15 enter a new account as you're recording things in  
16 QuickBooks. And he actually -- he took a few more  
17 extra seconds to do that.

18 Q. And so what can you tell from looking at  
19 this, as far as the dates in particular, about the  
20 entry of information about the Springfield building  
21 \$131,000?

22 A. Well, we specifically know that he did  
23 create it on September 19th. We know it was never  
24 edited, so that tells us that he had to know  
25 everything about this before he entered it. He had

1 to know that it had -- dealt with the Springfield  
2 account. He had to come to the conclusion it was --  
3 who the payee is, and things like that so --

4 Q. So I just want to show you a few more  
5 here. At the very bottom there, 567?

6 A. Yes.

7 Q. That's on the Springfield building  
8 schedule?

9 A. That is true.

10 Q. And then on the top of page 2, it's  
11 Transaction No. 574?

12 A. Yes.

13 Q. Or in the middle, I guess, of page 2.

14 A. Yes. Something flipped on my screen here.

15 Q. Do you see the 574?

16 A. 574, yes. The 318,000, right.

17 Q. Then there's 582 on page 3.

18 A. Yes. That's the \$4,000.

19 Q. Okay. Then also 587, lower on page 3.

20 A. Right.

21 Q. Now, were all four of these items coded in  
22 sequence?

23 A. Obviously, not.

24 Q. Okay. Were all Springfield building items  
25 coded on the same day?

1 A. No, they weren't.

2 Q. Did you see a faxed copy of the \$131,300  
3 check in Mr. Wilcox's work papers?

4 A. Yes, I did.

5 Q. Show the witness 1238-B.

6 A. Yes, I saw that.

7 MR. MATASAR: Mr. Cardani, we're going  
8 to move eventually for the admission of all the  
9 checks. If that's agreeable, we'll just do it now.  
10 Witness, Mr. Cardani we're going to move for  
11 admission of all the checks, if that's agreeable  
12 we'll do it now.

13 MR. CARDANI: Which checks?

14 MR. MATASAR: The 131, the 21, and the  
15 318. So we'll publish to the jury, then, and  
16 formally move, Your Honor, for the entry of 1238-B.

17 THE COURT: Received.

18 BY MR. MATASAR:

19 Q. You indicated, did you not, Mr. Cone, that  
20 you viewed the work papers of Mr. Wilcox?

21 A. Yes.

22 Q. And was this in there?

23 A. Yes, it was.

24 Q. Can you tell the date and time this check  
25 was faxed?

1           A.       Yes. We can see in the upper left-hand  
2       corner right here, that it was faxed on 5/16/2001 at  
3       2:08.

4           Q.       Okay. And I'd like to show you 1238-A.  
5       And to the jury, too.

6                   MR. CARDANI: We don't object.

7                   MR. MATASAR: We'll move for its  
8       admission, 1238-A, Your Honor.

9                   MR. CARDANI: No objection.

10                  THE COURT: Received.

11       BY MR. MATASAR:

12           Q.       So, Mr. Cone, you said the last check was  
13       faxed at 2:08 p.m. on 5/16/2001. So we're going to  
14       look now at -- okay. So the 131 was faxed on  
15       5/16/2001 at 2:08. Is that the same time as the  
16       \$21,000?

17           A.       Yes. They were both faxed --

18           Q.       The exact same time?

19           A.       Yes.

20                   MR. MATASAR: And let's look at  
21       1238-D, and we'll move for its admission.

22                   MR. CARDANI: No objection.

23                   THE COURT: Received.

24       BY MR. MATASAR:

25           Q.       And when was that faxed?

1           A.       That was faxed at 2:23, a little bit later  
2       in the day.

3           Q.       So going back to the \$131,000 check, did  
4       you see -- if we could put it up there, 1238-B.

5                   And we've seen the audit trail and others.  
6       Did you see any documentation or any information in  
7       Mr. Wilcox's work papers that supported the fact of  
8       him coding this check to the Springfield building  
9       account?

10          A.       No. There was nothing in his work papers  
11       at all that supported that decision on his part.

12                   MR. MATASAR: Hold on a second, Your  
13       Honor.

14                   (A discussion was had off the record.)

15                   MR. MATASAR: Let's just show you  
16       1238-C. It's another check. And move for it to be  
17       admitted.

18                   THE COURT: Received.

19       BY MR. MATASAR:

20          Q.       Sorry. I neglected this. This is the  
21       fourth check. Is this the fourth check on the  
22       Springfield building schedule?

23          A.       Yeah. These are the four checks that were  
24       included. Mr. Wilcox actually had check copies in  
25       his files.

1 MR. MATASAR: Move for admission of  
2 this one.

3 MR. CARDANI: No objection.

4 THE COURT: Received.

5 BY MR. MATASAR:

6 Q. So two were faxed at 2:08?

7 A. Yes.

8 Q. The 131 and the 21.

9 A. That's correct.

10 Q. Two were faxed at 2:23, the 10, and the  
11 318.

12 A. That's correct.

13 Q. And there's no information that you could  
14 find anywhere in the work papers that would explain  
15 why 131 went to Springfield?

16 A. No, there's not.

17 MR. MATASAR: That's all I have.

18 THE COURT: Cross?

19 CROSS-EXAMINATION

20 BY MR. CARDANI:

21 Q. Mr. Cone, I gave you a couple of exhibits  
22 and asked you over the break to compare them with  
23 the QuickBooks. Were you able to verify that they  
24 came from the QuickBooks?

25 A. No, I couldn't.



1 Q. You question whether these reports came  
2 out of the QuickBooks stuff? You said you've looked  
3 at all the QuickBooks stuff.

4 A. Yes.

5 Q. Okay. Do you have any doubt that the two  
6 exhibits that I showed you came from the QuickBooks?

7 A. They appear to be QuickBooks files, but I  
8 could not verify. I believe you mentioned that they  
9 -- or asked if they came from a specific file dated  
10 May 14th -- the May 14th file, and for me to, you  
11 know, certify that they absolutely did come from  
12 that, I would have to take them, prepare -- print  
13 out the same report, look at it, see if I got the  
14 same results from my file.

15 Q. Okay. We're going to show you -- if we  
16 could pass this up. I'm not offering it at this  
17 time, but this is the report of --

18 Now, Mr. Cone, you started the testimony  
19 off by saying you looked at three files, the May  
20 14th file, a June file, and an October file. Right?

21 A. Yes.

22 Q. Okay. You spent an awful lot of time  
23 doing your magic on this stuff. Right?

24 A. I'm not sure what you mean by a lot of  
25 time, but yes, I've spent some time on them.

1 Q. Well, let's talk about that first, then.  
2 What -- how much -- how many hours have you put into  
3 this project?

4 A. I have a little over 300 hours prior to  
5 kind of the final push for trial.

6 Q. Okay. So 300 plus the time to trial prep?

7 A. Yes.

8 Q. Okay.

9 A. Roughly.

10 Q. All right. And you're getting paid for  
11 this, of course. What are you charging?

12 A. 150 an hour.

13 Q. Okay. So you've been paid -- I'm not  
14 going to pretend to do math on this. 300 hours  
15 times 150. You spent that kind of time working on  
16 this. And, in essence, you're reviewing the back  
17 and forth on the QuickBooks?

18 A. I'm doing a lot of work. Not all of it is  
19 being presented here, I guess.

20 Q. Okay. And you're a CPA?

21 A. Yes.

22 Q. All right. And Ms. Matthews has assisted  
23 the defense, as well.

24 A. I believe that is true, yes. I did not  
25 participate in any meetings, you know, with her.

1 Q. Okay. But you've seen her in court here?

2 A. I met her for the first time when we got  
3 to court here on Thursday.

4 Q. And your understanding is that she's a  
5 CPA, as well.

6 A. Yes. That is my understanding.

7 Q. And she spent an awful lot of time looking  
8 into the books and records and the Wilcox --

9 MR. MATASAR: Objection, Your Honor.  
10 I don't think it's an appropriate question to ask --

11 MR. CARDANI: Okay. I'll withdraw.

12 BY MR. CARDANI:

13 Q. All right. So now, I only want to ask you  
14 about some limited stuff here, but I need you to  
15 verify, if you can, that the reports that I'm going  
16 to show you now came from the May 14th QuickBooks.  
17 Now, that's the one that everybody agrees  
18 al-Haramain gave to Tom Wilcox.

19 A. The May 14th file was the one given by  
20 Mr. Seda to Mr. Wilcox, correct.

21 Q. Okay. So now we've got the report that's  
22 been passed up to you, and I want to show you -- it  
23 hasn't been received yet, so if we could show him  
24 TW-8.

25 Now, this is the thing I showed you a

1 couple hours ago.

2 A. Uh-huh, yes.

3 Q. All right. Can you see that -- can you  
4 just verify for me that this comes right out of that  
5 May 14th report? This is just a subset or a  
6 contributions section of that May 14th report?

7 A. You're talking about this report that you  
8 just passed up?

9 Q. Uh-huh.

10 A. How would you expect me to do that?

11 Q. Oh, it's on a yellow tab.

12 A. Which one? We have three yellow tabs  
13 here. Do you want me to just check each one?

14 MR. CARDANI: Judge, may I approach  
15 the witness?

16 THE COURT: Yes.

17 MR. MATASAR: Do you have a copy of  
18 this for us?

19 A. Okay. Here's the problem we have here,  
20 okay. If I can say this. The problem we have is --

21 MR. MATASAR: Excuse me, Your Honor.  
22 I'm not sure what the witness is looking at.

23 THE COURT: Yeah. Let's show  
24 Mr. Matasar.

25 (A discussion was had off the record.)

1 MR. CARDANI: Judge, this is nothing  
2 but a section out of that same report.

3 THE COURT: Go ahead.

4 A. The problem is, you know, the  
5 authentication of this report. I'm not trying to be  
6 difficult, but for me to say that this -- you know,  
7 that there's nothing on here -- there's no way that  
8 QuickBooks -- let's start over again.

9 You know, when QuickBooks prints a report,  
10 it doesn't say here's the file and here's the date  
11 of that report and anything like that on here. So  
12 looking at this report, I can't tell -- I know it  
13 was printed on 12/23 at nine -- excuse me -- on  
14 September 5th at 12:33 p.m., but I don't know what  
15 file it came from --

16 BY MR. CARDANI:

17 Q. Mr. Cone --

18 A. -- other than your representation of it.  
19 Yes. Go ahead. I'm sorry.

20 Q. Mr. Cone, I'm not asking you about when it  
21 was reported or when it was edited. All I'm asking  
22 you is the information depicted in there, the  
23 checks, to whom they went to and the amounts, is  
24 right out of the May 14th report.

25 A. I couldn't tell you that without --

1 Q. Compare the information. It's the same  
2 thing.

3 A. But this report is from -- the same  
4 problem.

5 MR. CARDANI: Okay. Can we have a  
6 stipulation that TW-8 came out of the May 14th  
7 report?

8 MR. MATASAR: We don't have a May 14th  
9 report and --

10 MR. CARDANI: May I approach the  
11 witness to get that, Your Honor?

12 THE COURT: Yes.

13 (A discussion was had off the record.)

14 MR. MATASAR: Your Honor, Ms. Anderson  
15 has indicated that they have printed out the May  
16 14th QuickBooks file onto paper, and that this paper  
17 reflects that. And we -- for purposes of right now  
18 today, we can check later to see if that's true, but  
19 for purposes -- as long as we can object later, it's  
20 okay to continue questioning the witness, if he  
21 assumes that this is printed from the May 14th  
22 QuickBooks file.

23 THE WITNESS: All right.

24 MR. CARDANI: Okay. Great. Offer  
25 TW-8 at this time.

1 THE COURT: Any objections?

2 MR. MATASAR: Nothing than what I've  
3 said already, Your Honor.

4 THE COURT: It's received.

5 BY MR. CARDANI:

6 Q. Okay. So we're now back on TW-8.

7 A. Great.

8 Q. Now, you recognize this as the  
9 contributions report from the May 14 QuickBooks  
10 report -- and this is the one that al-Haramain gave  
11 to Wilcox. Correct?

12 A. The May 14th report is the one that went  
13 to Wilcox, yes. You're making -- yes. I'll just --

14 Q. So someone from al-Haramain had input a  
15 bunch of checks and they're depicted on this report.  
16 Before Wilcox gets it, this information comes to  
17 him.

18 A. Okay. Yeah, I would agree with that  
19 statement.

20 Q. All right. And so if we could go to the  
21 bottom, we see some of our 1999 transactions. I'll  
22 get back to those later.

23 A. Uh-huh.

24 Q. But the 2000 ones, Shop'n Cart, al-But'he,  
25 Western Somalian Relief, so on and so forth.

1 A. Yes.

2 Q. So that came to Mr. Wilcox on May 16th,  
3 but can we agree that the check for 131,300 -- and  
4 can we show him TW-5.

5 And this check that we've heard so much  
6 about, can we agree that that was not in the report  
7 given to Wilcox on May 14th?

8 A. Yes. I would agree with that.

9 Q. Okay. It wasn't coded anywhere in the  
10 QuickBooks as given by al-Haramain to Mr. Wilcox,  
11 was it?

12 A. No.

13 Q. Now, as a CPA yourself and seeing a check  
14 of this size, you would want to know what it was  
15 for. Right?

16 A. Yes, I would.

17 Q. And wouldn't one of the things that you'd  
18 do is -- to find out the answer to that is maybe  
19 talk to your client and ask him?

20 A. I would typically -- yes, I would -- if I  
21 was in Mr. Wilcox's shoes, that is what I would have  
22 done.

23 Q. And if the client says, "It went into a  
24 Springfield building."

25 A. Yes.



1 Q. Then you have to account for that on a  
2 Springfield building report. Right?

3 A. Yes, but you would want some more  
4 supporting documentation probably for that type of  
5 -- that size of number.

6 Q. Yeah. You'd want like, say, a closing  
7 statement or an escrow file?

8 A. You'd want to have something, yes.

9 Q. You'd want to ask your client for that.

10 A. Yes, you would.

11 Q. So TW-2, here's the building report.

12 A. Right.

13 Q. So Mr. Wilcox coded this check, the  
14 131,300, in this building report, the Springfield  
15 building, which is a report he prepared.

16 A. Right. Mr. Wilcox prepared, right.

17 Q. Okay. So in it goes as the funds used to  
18 buy -- part of the funds used to buy the Springfield  
19 building.

20 A. Yes.

21 Q. And then this figure, this 461,541 is used  
22 to prepare the 990. It's on the actual attachment  
23 as part -- as the funds used to buy the Springfield  
24 building. Right?

25 A. I have not studied that very much, but I

1 believe that's true.

2 Q. Okay. We can show it to you if you want.

3 A. I'm not going to argue that point.

4 Q. Now, if we could go back to TW-8. Do you  
5 have a calculator?

6 A. Not with me, no.

7 Q. Do you have a piece of paper?

8 A. I've got a piece of paper.

9 Q. Okay. Let's --

10 A. Let me get a pen.

11 Q. Let's test your math skills. Okay. Do  
12 you see how this says 25,063.26?

13 A. Yes.

14 Q. All right. Now, I want to get back to  
15 those 1999 checks. The first five of those are from  
16 1999. Right?

17 A. Okay.

18 Q. Now, if your job is to find out what the  
19 contributions -- as given by al-Haramain to  
20 Mr. Wilcox for the year 2000, then, those '99  
21 contributions have to be deducted. Right?

22 A. Right.

23 Q. So could you add up the total of 1999  
24 checks?

25 A. I'd rather not try to do it just ad hoc

1       like that. I'm sure you've done --

2           Q.       Do you have a piece of paper?

3           A.       Yes, I do.

4           Q.       Okay. You can use it. Do you have a pen?

5           A.       Yes, I do.

6           Q.       Okay. Can you just, please, do that for  
7 me. Humor me.

8           A.       Okay.

9                   (Pause.)

10                  I came up with, I believe, 529.31.

11          Q.       Okay. That's the same as my calculator,  
12 so congratulations, we agree. All right. Hold that  
13 figure.

14          A.       Okay.

15          Q.       See this figure here, 25,063.26?

16          A.       Uh-huh.

17          Q.       All right. Now, do just one more math for  
18 me. Subtract that number -- take 25,063.26 and back  
19 out 529.31.

20                  (Pause.)

21          A.       I believe 24,533.85 probably would be  
22 right.

23          Q.       Close. Round it up now to the next  
24 dollar.

25          A.       Oh, 24,534.

1 Q. 24,534. Okay. Hold that figure, 24,534.  
2 Now, let's go to the return. Can you go to IRS-1,  
3 and if we could go to line 22. And tell us what  
4 figure Mr. Wilcox reported for the donations as  
5 reported by his client al-Haramain on the Form 990  
6 for contributions.

7 A. We have our 24,534.

8 Q. Okay. Now, if the funds, that 131,300,  
9 really went for foreign contribution for whatever  
10 purpose, it should have gone here, shouldn't it?

11 A. I don't think that's my job to opine on  
12 that particular piece of information.

13 Q. Well, but you're a CPA?

14 A. I'm a CPA. I'm not a tax accountant.  
15 I've never specialized in taxes. I specialize in  
16 audit and forensic accounting work, so I'm not going  
17 to sit here and -- I can't opine on whether that  
18 amount should have actually appeared here. And I  
19 was here when Mr. Wooten was talking about what  
20 should and should not go on tax forms, and I'm not  
21 going to opine particularly on that.

22 I would say that if the 131 had been coded  
23 correctly -- you know, as we now believe it should  
24 have been -- it probably could have been on that  
25 contribution schedule as an expense, unless it was

1 considered to be a complete pass-through or wash, in  
2 which case maybe it shouldn't have shown up as P&L  
3 or an expense, depending on the nature of the  
4 transactions.

5 Q. Now, you're just basing that on your  
6 observation of the testimony in this trial, aren't  
7 you?

8 A. Yes.

9 Q. Okay. You don't know anything about that.

10 A. I don't -- no. I tried to preface my  
11 comment that way.

12 Q. All right. Let's move on to the \$21,000.  
13 Okay. TW-4. Now, you know that this check was  
14 coded by al-Haramain in the QuickBooks as a  
15 reimbursed expense.

16 A. Yes.

17 Q. If I could show you -- I'm going to  
18 represent that TW-9 -- which I have a copy here for  
19 Mr. Matasar.

20 MR. MATASAR: I have it.

21 MR. CARDANI: It came out of the May  
22 14 QuickBooks. And with that understanding, I would  
23 offer TW-9.

24 MR. MATASAR: Same position, Your  
25 Honor.

1 THE COURT: It is received subject to  
2 that.

3 BY MR. CARDANI:

4 Q. Okay. So I'm bringing it up on the  
5 screen.

6 A. Yeah, I see it.

7 Q. All right. Now, this is the list of  
8 reimbursed expenses that Mr. Wilcox got from  
9 al-Haramain. In other words, al-Haramain did the  
10 inputting, not Mr. Wilcox.

11 A. Yes.

12 Q. All right. And you see the third line to  
13 the bottom there --

14 A. Yes.

15 Q. -- the \$21,000 is listed as a reimbursed  
16 expense.

17 A. Yes.

18 Q. Now -- well, I was going to say, do you  
19 know as a CPA that \$21,000 is a lot of money for  
20 reimbursed expense?

21 A. It certainly would -- it certainly stands  
22 out on this schedule as being a little unusual.

23 Q. Okay. And as a CPA, knowing that this is  
24 a large amount that stands out, you've got to deal  
25 with it, don't you?

1 A. Yes.

2 Q. And if your client didn't code it anywhere  
3 else in the QuickBooks, you'd probably want to talk  
4 to your client and ask him about it, wouldn't you?

5 A. Yes, you would.

6 Q. And if I could show TW-1. Now, let's say  
7 the client says it was refunded to the donor. Then  
8 as a CPA you'd want to back that out of reimbursed  
9 expenses. Right?

10 A. That is correct.

11 Q. And assume with me, that if that  
12 information is received, both the 21,000 and also  
13 you see where Mr. Wilcox did the \$5,000 work here --

14 A. Yes, uh-huh.

15 MR. MATASAR: Your Honor, I'm going to  
16 object. Mr. Wilcox specifically did not say return  
17 to the donor. It's an improper hypothetical  
18 question. He said it went back to Mr. al-But'he.  
19 No facts in the record at all.

20 MR. CARDANI: Well, I'll restate the  
21 question.

22 BY MR. CARDANI:

23 Q. You see that Mr. Wilcox made some  
24 adjustments here.

25 A. Yes.

1 Q. Okay. And those two checks came down to  
2 \$26,000.

3 A. Yes. I see that.

4 Q. So he backed those out of contribution --  
5 income. Right?

6 A. That's what he did, yes.

7 Q. Okay. Let's go to TW-3. So he makes --  
8 going down to the bottom here.

9 A. Uh-huh.

10 Q. And you know that there was an adjustment  
11 made reducing contributions by \$26,000.

12 A. Yes.

13 Q. And you see that figure at the bottom,  
14 561,639.53?

15 A. Uh-huh.

16 Q. Okay. That's rounded up to, what,  
17 561,640?

18 A. Yes. I think that would be the right  
19 rounding.

20 Q. All right. Let's go to IRS-1, Form 990,  
21 and let's look at line 1. That's what Mr. Wilcox  
22 listed for contributions for that year. Right?

23 A. That is correct.

24 MR. CARDANI: I have nothing else.

25 Thank you.



1 THE COURT: Mr. Matasar?

2 REDIRECT EXAMINATION

3 BY MR. MATASAR:

4 Q. Mr. Cone, you were asked if you were the  
5 CPA and you got the \$131,000 check. First, let me  
6 show the \$131,000 check. I'll give you the number  
7 in a second.

8 Susan, can you cull it up? Do you know  
9 what it was? It was TW -- I don't know the number.  
10 I'm sorry. 1238-B, I think. We can use our  
11 version.

12 Now, first of all, Mr. Wilcox coded that  
13 check?

14 A. That is correct.

15 Q. Okay. It wasn't hidden in some schedule  
16 before he got it. This check was actually faxed to  
17 him.

18 A. Yes. It was faxed to him almost four  
19 months -- if I have my math right here still.

20 Q. Okay. And if you got that check --  
21 Mr. Cardani asked you some questions, if you got a  
22 check like that, what would you have done.

23 A. Yes.

24 Q. Why don't you tell the jury what you would  
25 have done?

1           A.       First of all, I would have called up  
2       Mr. Seda, I think in the first instance, and then  
3       written notes, probably a large note, given the size  
4       of this check, a large note at the bottom of it  
5       exactly what Mr. Seda had told me about this check.  
6       And I'd have asked him, "Well, why are we using a  
7       counter check?"

8                   This is a specific type of bank check. I  
9       don't know whether that's been testified to, but  
10      this is not a preprinted al-Haramain check, so  
11      there's big questions in my mind about that. I'd  
12      also be curious about why Mr. But'he -- I believe  
13      that's Mr. But'he's signature -- why Mr. But'he  
14      signed it. There's just a lot of questions about  
15      this check. And no payee, that's another big flag  
16      as to there's something very unusual about this.

17           Q.       And how long a conversation do you think  
18      that might have taken?

19           A.       At least five, 10 minutes, I guess.

20           Q.       All right. Not two minutes and 30 seconds  
21      or whatever --

22           A.       No. Definitely not two minutes and 30  
23      seconds.

24           Q.       And what would your file have reflected?  
25      Anything other than the note on the bottom of that

1 fax? Would you have other notes in the file perhaps  
2 of your conversation justifying this?

3 A. I think if I had a good copious note  
4 there, and then the cross-references from this check  
5 to wherever it ended up, so that somebody picking  
6 up, for example -- you know, if in fact it was a  
7 fixed asset, picking up the al-Haramain schedule,  
8 seeing the 131, seeing the cross-reference back to  
9 this check, okay, then it would be very clear from  
10 anywhere in the work papers that you would go -- you  
11 could figure out what was going on with it. It  
12 would be really clear.

13 Q. We've seen some of those -- I don't know.  
14 Do you remember the legal fee schedule --

15 A. Yes.

16 Q. -- where there was a circle at --

17 A. Right.

18 Q. -- from line and then that sort of thing?

19 A. Yes.

20 Q. So there are ways that you reflect  
21 important transactions on the work papers.

22 A. Right. In the audit terminology, we say  
23 footnotes.

24 Q. Footnotes.

25 A. You know, you tick mark something and then

1 we footnote it and describe what is going on with  
2 that check so that there's no ambiguity down the  
3 road as to what was going on.

4 Q. And you typically do that at the time that  
5 you learn the information.

6 A. Absolutely.

7 Q. So you'd have to have a conversation with  
8 the client, and then you'd be mucking up all these  
9 different kinds of papers.

10 A. Yes.

11 MR. MATASAR: Okay. Thank you.

12 MR. CARDANI: Nothing else.

13 THE COURT: You may step down.

14 Call your next witness.

15 MR. WAX: Your Honor, the next witness  
16 is Dr. Long. And we need a ruling from the court on  
17 the matters we discussed before we commenced.

18 THE COURT: All right. On the record,  
19 let's not have it just now. I'm going to find that  
20 there's not proper foundation established as a  
21 custodian or supervisor under the Oregon rules, and  
22 so do not expect to allow those several exhibits we  
23 discussed earlier to come into evidence. That's  
24 part of the reason for my ruling.

25 MR. WAX: May he still comment on what

1 he has observed?

2 THE COURT: Not about those exhibits,  
3 no.

4 MR. WAX: May I have a moment, please?

5 THE COURT: Yes, of course.

6 Why don't you stand and stretch,  
7 jurors. I realize you work hard here. I'm a farm  
8 boy, so I don't watch the clock very well.

9 MR. WAX: Dr. David Long, Your Honor.

10 THE COURT: Thank you.

11 (The witness was sworn.)

12 THE CLERK: Please have a seat.  
13 Please speak into the microphone here. Here's some  
14 water if you'd like some.

15 THE WITNESS: Thank you.

16 THE CLERK: Please state your name and  
17 then spell it for the record.

18 THE WITNESS: David Long.

19 THE COURT: Go ahead, Counsel.

20 DIRECT EXAMINATION

21 BY MR. WAX:

22 Q. All right. Dr. Long, can we start,  
23 please, by having you tell the jury a little bit  
24 about your background and please start with your  
25 educational background.

1           A.       I got a bachelor's degree in history from  
2       Davidson College in North Carolina. I got a  
3       master's degree in political science from the  
4       University of North Carolina in Chapel Hill. I got  
5       another master's degree with the Fletcher School of  
6       Law and Diplomacy in Boston, which was at that time  
7       under both Harvard University and Tufts University.  
8       And I got a Ph.D. in international relations from  
9       George Washington University in Washington D.C.

10                I have been a Middle East person -- I  
11       won't say specialist -- from my academic days. I  
12       joined the Foreign Service in 1962. I've served in  
13       Sudan and Morocco, in Jordan and Saudi Arabia, and  
14       of course, in Washington where I was, among other  
15       things, the head of analysis for the Near East, and  
16       where I was the deputy director of the Office of  
17       Counterterrorism for regional terrorism back in the  
18       1980s.

19                I've also had somewhat of a career as --  
20       in academia. I was the first director of the  
21       Georgetown University Center for Contemporary Arab  
22       Studies. I was an acting head of the humanities  
23       department while I was doing a tour at the United  
24       States Coast Guard Academy in Connecticut. And I  
25       have taught in various -- at night at various

1 universities in Washington D.C. and I've also spent  
2 a year teaching on a fellowship at the University of  
3 Pennsylvania in Philadelphia.

4 And I have also done a considerable amount  
5 of lecturing. I've lectured in every State of the  
6 Union, including this state. I have lectured  
7 overseas, in U.K., in Germany, in Italy, in Egypt,  
8 in Saudi Arabia, in Jordan, in United Arab Emirates,  
9 in Kuwait, in Iran back during the shah's reign, in  
10 India, in Australia, and in Japan. I think that's  
11 about enough of that.

12 Q. All right. Let me put another question to  
13 you.

14 A. Okay.

15 Q. Have you ever lived in Saudi Arabia?

16 A. Yes, I have.

17 Q. Okay. When and for how long?

18 A. I was assigned to Saudi Arabia in the  
19 winter of 1966, but I spent -- I spent New Year's in  
20 Beirut and got there in January 1967. And I left  
21 there in 1970 and came back to the United States.  
22 But since then I have often, both on business and in  
23 research and other things, been visiting there ever  
24 since. The last time I was in Saudi Arabia, I  
25 guess, was in the winter of 2008.

1 Q. Okay. And during your time in the State  
2 Department, looks like 31 years or so, did you hold  
3 very high level security clearances?

4 A. Yes, I did. I held pretty much as high as  
5 you can get in the State Department, but in addition  
6 to that, I represented the State Department on the  
7 Intelligence Community Staff, which is made up of  
8 all agencies and departments in the U.S. government  
9 that either collect, analyze, or use intelligence in  
10 policymaking. And at that one, I think I had over a  
11 dozen security clearances from virtually every  
12 intelligence operation in Washington D.C.

13 Q. And during the course of your work for the  
14 State Department, were you assigned from time to  
15 time to do intelligence work?

16 A. Well, when you say intelligence work, that  
17 covers a lot of ground. I was an analyst in the  
18 Bureau of Intelligence and Research. And I was the  
19 head of analysis for the Near East for quite a  
20 while.

21 Q. Okay. And you mentioned being in the  
22 Office of Counterterrorism and the deputy director  
23 in the State Department. That was in the 1980s?

24 A. That is correct.

25 Q. And to the extent you can, please give us



1 a rough idea of your responsibilities in that  
2 counterterrorism position.

3 A. Well, we had a very small office back  
4 then, and my superior was Ambassador Oakley. And in  
5 those days the State Department was considered the  
6 lead agency for international terrorism in the  
7 United States government. And we had -- as it  
8 turned out, we had a lot to do. We actually had  
9 more terrorism going on then than we do now, but it  
10 was not, of course, as high profile as it is now.  
11 So I did a lot of traveling.

12 One of the things that I had to do was  
13 when there was a really bad crisis going on, I led a  
14 lot of what we call emergency support teams, which  
15 as the lead agency, the State Department had the  
16 head of those teams. And we had people from the CIA  
17 and DIA and NSA and all over the place, depending on  
18 the nature of the crisis, such as airplane  
19 hijacking, such as -- older people here might  
20 remember the Achille Lauro. It was a ship that was  
21 taken over by terrorists and things like that.

22 I also worked on the hill with -- on  
23 terrorism matters and policy when asked by the  
24 congress -- our office was asked to come up and give  
25 them briefings on various things. I also --

1 Q. And that was part of your  
2 responsibility --

3 A. Yes.

4 Q. -- to go up to the congress and brief the  
5 congress people?

6 A. And also to be in a lot of meetings at the  
7 White House because there was a lot of terrorism  
8 going on.

9 Q. All right. Now, you have retired from  
10 government service in 1993. Since then have you  
11 continued to be employed in any way that uses the  
12 expertise that you had developed during your 31  
13 years with the government?

14 A. Yes, I have.

15 Q. Please tell the members of the jury a bit  
16 about that.

17 A. Well, I've done a lot of consulting. I've  
18 done a lot of lecturing. I've written probably half  
19 a dozen books since I retired. I wrote a bunch  
20 before I retired. The latest books of which came  
21 out two weeks ago, one on Saudi Arabia, and I am the  
22 coeditor of probably one of the leading books on the  
23 government and politics of the Middle East and North  
24 Africa. And the 6th edition came out also last  
25 week.

1 I am also on a list of -- for an aviation  
2 security consulting firm, particularly when it deals  
3 with the Middle East, and have written for them a  
4 number of threat analyses for master security plans,  
5 places like Saudi Arabia and United Arab Emirates.

6 Q. But just in terms of the currency of your  
7 knowledge, if I understand correctly, the book The  
8 Kingdom of Saudi Arabia, first edition 1997, that is  
9 one that you have coauthored?

10 A. No. That I authored myself. The second  
11 edition came out last week.

12 Q. And the second edition you coauthored?

13 A. I coauthored it with a young scholar named  
14 Sebastian Maisel, who basically helped me with the  
15 research, which brought it up-to-date from my first  
16 edition.

17 Q. Right. And the subject matter of The  
18 Kingdom of Saudi Arabia in brief for the jurors,  
19 please, is what?

20 A. Well, it is a -- it's sort of like a  
21 handbook, but it's not written in handbook language.  
22 It's a little deeper than that. And we discussed in  
23 there the topology, the demography, the land and  
24 people. We discussed economics. We discussed  
25 petroleum. We discussed Islam.

1 I earlier had written a book on the hajj,  
2 and on involatol (phonetic) hajj, which is the  
3 administration, how the Saudis put on a hajj. They  
4 had last year about three million people come to the  
5 pilgrimage in Mecca.

6 We did a chapter on foreign affairs, their  
7 foreign policies, and so we pretty much covered the  
8 waterfront in this book.

9 Q. Okay. And the other book which has had a  
10 new edition come out just recently, The Government  
11 and Politics of the Middle East in North Africa,  
12 does that include Saudi Arabia?

13 A. Yes, it does. And I used to always write  
14 that book -- that chapter, the first edition came  
15 out in 1980. And I designated Dr. Maisel, who is my  
16 coauthor in the latest book, to do that one, but I  
17 had to edit one-third of that book including the  
18 chapters on Saudi Arabia and Gulf states in Yemen,  
19 and most of the Near East.

20 Q. I noticed another book, Culture and  
21 Customs of Saudi Arabia with a 2005 publication  
22 date.

23 A. Yes. They've been after me for a couple  
24 years to write that. I am not a cultural  
25 anthropologist, but after 9/11, I felt that if

1     you're going to understand what people do and why  
2     they do it in Saudi Arabia, you have to know  
3     something about Islam and you have to know something  
4     about culture, and those are interactive. And so I  
5     wrote this book on the culture and customs of Saudi  
6     Arabia in 1905 [sic] and it is still in print.

7           Q.     In 1905 or 2005?

8           A.     Sorry. 2005. Beg your pardon.

9           Q.     Thank you, sir.

10          A.     Time flies.

11          Q.     All right. I take it then -- let me start  
12     this way. My office contacted you some months ago  
13     to ask whether or not you could be of any assistance  
14     in helping us understand some of the transactions at  
15     issue in this case.

16          A.     That is correct.

17          Q.     And I take it that you believed that your  
18     familiarity with Saudi religion, government,  
19     business, and charities is sufficient that you  
20     believe that you would be -- it would be reasonable  
21     for you to appear in court as an expert witness, and  
22     that's why you're here.

23          A.     Yes. I would add to that culture.

24          Q.     Culture. Thank you, sir. All right. I  
25     want to start just by asking you a very brief

1 question or two about the Russian Chechen War.  
2 There's been a great deal of testimony about that.  
3 My question to you, sir, is: Does the State  
4 Department prepare reports on a country-by-country  
5 basis of human rights issues around the world?

6 A. Yes.

7 Q. Can you tell us a little bit about that.

8 A. Human rights is, of course, a major United  
9 States government concern for all around the world.  
10 And regardless of what you're writing about or what  
11 country you're writing about, all countries are  
12 viewed from a point of view of human rights. And  
13 when there is a country that is in conflict, and  
14 particularly, brutal conflict as was -- has happened  
15 in Chechnya, then human rights becomes a very  
16 serious subject in trying to -- discussing what is  
17 the best policies to adopt in regard to that issue.

18 Q. And are you familiar with human rights  
19 reports by the Department of State, your former  
20 employer, about Russia, and specifically, any  
21 references to Chechnya for the years 1999 and 2000?

22 A. Yes. I have seen them.

23 Q. And in a very brief form, can you tell us  
24 whether or not they expressed concern about the  
25 brutality of the Russian activity in Chechnya in

1       that time period?

2                       MR. GORDER:   Objection as to  
3       relevance.

4                       THE COURT:   Overruled.   Very brief,  
5       Doctor.

6       BY MR. WAX:

7               Q.       You may answer in brief, sir, about those  
8       reports.

9               A.       It is my view that having seen these kinds  
10      of reports from all over the world, when both I was  
11      doing Near East and when I was doing the whole world  
12      and anti-terrorism, that it did in the State  
13      Department language express very much concern for  
14      human rights because of the conflict.

15              Q.       And these reports are official documents  
16      of the United States Department of State expressing  
17      the official views of that branch of our government?

18              A.       That is true, and the United States State  
19      Department is the lead agency for foreign policy.

20              Q.       Thank you, sir.   All right.   I'd like to  
21      change the subject to one that we have also had some  
22      discussion about, and that is Islam zakat and  
23      fatwas.   And I'd like to get into this, not by  
24      asking you for a detailed discussion because we've  
25      already had that, but by asking Ms. Cooke to please

1 show you the Exhibit EK-4A.

2 Okay. You've clearly had an opportunity  
3 to see this fatwa before -- or this document before  
4 coming into court today?

5 A. Yes, I have.

6 Q. Okay. And you've had an opportunity to  
7 read it and study it?

8 A. Yes, I have.

9 Q. All right. In very brief form, sir --  
10 And, Your Honor, I can speed this up if I  
11 could do some leading, if that's permissible?

12 THE COURT: Give it a try.

13 MR. WAX: Thank you.

14 BY MR. WAX:

15 Q. A fatwa is a statement by a person in  
16 Islam that represents that person's views?

17 A. That is correct.

18 Q. Is a fatwa binding on all Muslims in any  
19 way?

20 A. Some are, some are not. Depends on who  
21 makes the fatwa and under what circumstances. For  
22 example, Saudi Arabia, the law -- what we would  
23 consider constitutional law of Saudi Arabia is  
24 Islamic law. And the Islamic and the Saudi Ministry  
25 of Justice is really a modernization of the Grand



1 Mufti and the Chief Qadi.

2 Q. What's mufti and qadi? Help us out.

3 A. Okay. I'm going to. The -- a qadi is a  
4 judge, so that means the head of the juridical  
5 system judges. The mufti is those who deals with --  
6 the chief person who deals with fatwas. And if  
7 within the justice -- the ministry of justice, if  
8 there is a fatwa, it can be binding.

9 But on the other hand, anyone who is  
10 thought to be an expert on Islamic law and gives a  
11 fatwa on his own or was asked to give a fatwa is not  
12 necessarily binding.

13 Q. Okay. In terms of this exhibit EK-4A, the  
14 name, I'm not going to try the pronunciation of  
15 anything, other than the last six letters, Jibrin.  
16 Are you familiar with the name of this individual?

17 A. Yes.

18 Q. Is he a mufti or -- I forgot the other  
19 word you used -- whose fatwa would be binding as you  
20 described?

21 A. He is a religious scholar and is known in  
22 the country, but this is still his own personal  
23 finding.

24 Q. Now, very briefly, we have had the term  
25 "zakat" described as one of the pillars of Islam,

1 and that a zakat has certain restrictions and  
2 creates certain obligations. I'd like to ask you,  
3 sir, whether this fatwa, Exhibit EK-4A, makes any  
4 reference to zakat?

5 A. In my opinion -- I can't see the whole  
6 thing, whether it literally does or not, but it is  
7 not about zakat. It is about jihad.

8 Q. In terms of any rights, obligations, or  
9 limitations that this particular fatwa would have on  
10 a donation that is described as zakat, would this  
11 have any bearing on that?

12 A. Not really. Zakat is one of the five  
13 pillars of Islam, which are the basic religious  
14 rights and represent the basic religious theology of  
15 Islam. Zakat is the fourth pillar. It's very  
16 basic. Jihad is not a pillar, and it is not binding  
17 in the same way as zakat, which is obligated -- it  
18 is the obligation of every Muslim, adult Muslim, to  
19 give zakat according to their financial ability. So  
20 it's like a tithe. And it -- and in that context,  
21 it is not -- it is not a synonymous thing with  
22 jihad, and jihad is not one of the five pillars of  
23 the faith.

24 Q. All right. So this Jibrin fatwa is  
25 dealing with a subject other than zakat? If I can

1 shorten --

2 A. Yes.

3 Q. -- what you said.

4 A. In my opinion, it is dealing with jihad.

5 Q. If we could, please, show Dr. Long EK-5A.  
6 You've had the opportunity to review this document  
7 before coming to court today?

8 A. Yes. I've seen the document.

9 Q. And this is represented to be a fatwa by a  
10 fellow named Uthaymin?

11 A. Uthaymin, yes.

12 Q. And this particular document does refer to  
13 zakat.

14 A. Yes, it does.

15 Q. Can you please tell the members of the  
16 jury what this particular fatwa is saying about the  
17 permissible uses of money for zakat, and I also see  
18 that there's reference in here to sadaqah. So help  
19 the jurors please understand what this fatwa is  
20 saying.

21 A. Zakat, as I said before, is a pillar of  
22 the faith, the fourth pillar. It is obligatory for  
23 all adult Muslims who are financially able to give a  
24 portion of their disposable income every year for  
25 humanitarian purposes. Sadaqah, which is also

1 mentioned in the Qur'an, is charitable giving, but  
2 it is not a pillar of the faith and it is broader  
3 than zakat.

4 Zakat is really a religious rite, like  
5 R-I-T-E, and it is considered -- the rite of zakat  
6 refers to expressing -- and it's obligatory.  
7 Expressing your love of God and your obedience of  
8 God through giving each year for humanitarian  
9 charity.

10 Q. So zakat has a humanitarian component that  
11 is required?

12 A. That is correct.

13 Q. All right.

14 A. Sadaqah, on the other hand, does also have  
15 humanitarian giving in it, but it is much broader  
16 than zakat.

17 Q. Okay. Now, I'd like you to please look at  
18 the first paragraph in the answer here, "Giving  
19 sadaqah and zakat to the Muslims in the land of  
20 Caucasus, specifically in Chechnya is permissible.  
21 The zakat would be given to the mujahideen and the  
22 poor, while sadaqah is of a wider scope."

23 Can you help the members of the jury  
24 please to understand the reference to mujahideen  
25 here, and what, if any, limitation on aid to the

1 mujahideen exists in the use of the word "zakat"?

2 A. All right. Mujahideen is a plural for  
3 mujahid, and a mujahid is someone who is doing  
4 jihad. Jihad has a broad, broad sphere of meanings.  
5 It is not just holy war. It includes holy war, but  
6 it is not just holy war. So you can be a mujahideen  
7 in many, many contexts. Obviously, in Chechnya, the  
8 context that they would use it would be they're at  
9 war of independence, and they have made it an  
10 Islamic war for independence and they called  
11 themselves mujahideen. All right?

12 Now, that said, however, there are a  
13 number of things that you can do for them in sadaqah  
14 that you cannot do for them in zakat because zakat  
15 is only limited -- is limited only to humanitarian  
16 giving, period. So if there is humanitarian giving  
17 that can be done for somebody who's a mujahideen, it  
18 is still humanitarian. And if it is not  
19 humanitarian, it does not count as zakat. It can be  
20 sadaqah, but it cannot be zakat.

21 Q. All right. Dr. Long, I'd now like to turn  
22 your attention to a few of the documents that we  
23 have in this case that describe the donation made by  
24 an Egyptian philanthropist, Dr. Mahmoud El-Fiki.

25 And, Ms. Wells, if you could please put up

1 for the jury first and the witness Exhibit 669.

2 You've had an opportunity to view this email before  
3 coming into court today?

4 A. Yes, sir.

5 Q. And can you please tell the members of the  
6 jury what, if any, portions of this email, which is  
7 an email from Dr. El-Fiki to Haramain, date of  
8 January 11th, what, if any, portions of this are  
9 relevant to the question of the limitations on --  
10 that would exist on the donation he made?

11 MR. GORDER: Your Honor, I'm going to  
12 object to any discussion of Mr. El-Fiki's intent.

13 MR. WAX: I'm not asking for his  
14 intent. I'm asking for a description of this  
15 document, Your Honor, and what it says.

16 THE COURT: Yeah. I'm going to let  
17 him describe that, but you may not take that for the  
18 truth of what's in the document. Mr. El-Fiki is not  
19 here for cross-examination, so it would be -- for  
20 the truth of it would be hearsay. I'm going to  
21 allow him to describe it.

22 MR. WAX: Thank you.

23 BY MR. WAX:

24 Q. So, Dr. Long, taking a look at this  
25 document, do you see the word "zakat" --

1           A.       Yes, I do.

2           Q.       -- in here. Paragraph 3 -- well, let's  
3 just start from the beginning. Take us through it  
4 because it appears in a number of places. What does  
5 this document say to you about limitations on the  
6 use of the money that Dr. El-Fiki eventually  
7 contributed?

8           A.       All right. The first one says "I would  
9 like to pay zakat." Remember, it is an obligation  
10 to pay zakat. "Supporting Muslim brothers in  
11 Chechnya." This is what he's talking about,  
12 Chechens.

13          Q.       Excuse me --

14          A.       "And would be transferring the money from  
15 my account to London" and we'll go on with that.

16                 No. 2 says, "If yes" -- and the answer was  
17 yes -- "can you provide me with the account details"  
18 -- which were done. "Would it be possible for you  
19 to send any receipt?" And that is responded to,  
20 also.

21                 So what this person is asking for, he  
22 wants to do a zakat.

23          Q.       And that's humanitarian?

24          A.       And that means humanitarian, and he wants  
25 it to be done for people in need and poor for

1 humanitarian purposes only, in Chechnya because of  
2 the conflict that was going on, which was a very,  
3 very brutal war.

4 Q. Doctor, I'd like to ask you a question,  
5 please, about the use of the phrase "Muslim  
6 brothers" in here, and what, if any, connotation or  
7 denotation that has based on your familiarity with  
8 and long experience in the Middle East with Arabic  
9 and Saudi Arabia?

10 A. Well, brothers in Arabic is ikhwan, and  
11 ikhwan, or brothers, is commonly used in all sorts  
12 of contexts. It means the brethren. It means, if  
13 you were in the Southern United States, it would  
14 mean y'all.

15 And so when he's talking about the  
16 brethren or the brothers, he's talking about his  
17 fellow men and women, the folks in Chechnya. And  
18 that -- that is the context that I read that you see  
19 here when he says the Muslim brothers.

20 Q. I'd like to direct your attention, please,  
21 for a moment to the first paragraph. There's a  
22 reference to a Saudi committee and I'd ask whether  
23 or not you are familiar with an entity that we've  
24 had testimony about that was established by explicit  
25 agreement of the Russian and Saudi governments in



1 1999, the Saudi Joint Relief Committee.

2 A. Yes, I am.

3 Q. And just in very brief form, because we've  
4 had some testimony about this, what is your  
5 understanding about the purpose of that committee?

6 A. That committee was to see and to  
7 coordinate, not just the Al-Haramain Foundation, but  
8 a number of other Saudi charitable foundations and  
9 organizations, such as the Saudi Red Crescent  
10 Committee, which in Saudi Red Crescent is a Muslim  
11 name for what we call the Saudi Red Cross.

12 So its job was to make sure that all of  
13 these people were coordinated so that they could get  
14 their donations and they're giving to the people who  
15 needed it, not just zakat, but also sadaqah, which  
16 had broader connotations than zakat, but any  
17 charitable gift for the people of Chechnya who  
18 needed it, and they needed it badly. This committee  
19 was trying to coordinate all those so they wouldn't  
20 go all over the place and not get to where they were  
21 supposed to go.

22 Q. All right. Thank you, Doctor. I'd like  
23 to now ask you to please take a look at Exhibit 670  
24 -- if that could be shown to the witness and the  
25 jury -- and this is an email dated January 18th from

1 al-Haramain to Dr. El-Fiki. And if you could please  
2 -- you've seen this before you came to court today?

3 A. Yes, I have.

4 Q. And could you please tell us what you see  
5 in here that is relevant to the inquiries that  
6 appeared in the Dr. El-Fiki email of January 11th  
7 that you've just described.

8 A. Well, I don't see it all here, but --

9 Q. I think it's coming up on the screen now.

10 A. Okay. This was the al-Haramain  
11 Foundation's response to the questions that were  
12 given to them by Mr. El-Fiki who wanted to have the  
13 zakat. And basically, if you look -- if you see it,  
14 they -- he is telling them in answer to the query  
15 that they got it -- they can give him a receipt  
16 saying that they got it to make sure that they did  
17 get it and that it would be used for the purposes of  
18 the poor and the needy and the refugees in Chechnya,  
19 all of which can come under what can be done with a  
20 zakat.

21 So he basically was saying that the  
22 Al-Haramain Foundation was able to -- willing to  
23 provide the funds -- the zakat funds that  
24 Mr. El-Fiki wanted to give to where he wanted them  
25 to go to for humanitarian purposes.

1 THE COURT: Counsel, I overruled the  
2 previous objection by the government, but the  
3 witness is doing what he's really not allowed to do  
4 here. He can tell what the terms usually mean. He  
5 can't tell what Mr. El-Fiki's intention is.

6 MR. WAX: All right.

7 THE WITNESS: Let me change that if I  
8 may, Your Honor, and say it is my opinion.

9 THE COURT: There's not enough for you  
10 to base an opinion on what his intention is.  
11 Mr. Wax knows what I'm saying.

12 BY MR. WAX:

13 Q. Dr. Long, I would ask you to look, please,  
14 at Exhibit 676, and this is also in evidence, I  
15 believe, so it could go to the jury. You had an  
16 opportunity to see this exhibit before coming to the  
17 courtroom today? I'm sorry about the placement of  
18 the computer and the size there, but do you recall  
19 this exhibit including an email chain -- Ms. Wells,  
20 put it back up to --

21 A. Yes.

22 Q. There you go. -- an email chain between  
23 Dr. El-Fiki and al-Haramain?

24 A. Yes.

25 Q. All right. And just please tell us what

1 the terms in this series of documents mean, going --  
2 starting at the bottom, it appears to be an email  
3 dated February 24th. Do you see the reference --

4 A. Yes, I do.

5 Q. -- to the term "zakat" in that email --

6 A. Yes.

7 Q. -- which is from Dr. El-Fiki to  
8 al-Haramain?

9 A. Well --

10 Q. I mean the first question is: Do you see  
11 the reference to the term "zakat"?

12 A. I see the reference to zakat.

13 Q. And this is a reference contained in the  
14 email sent by El-Fiki.

15 A. That is correct.

16 Q. And you previously described for us what  
17 zakat generally means, and I take it that that would  
18 be the same understanding that you would have of the  
19 term here, as well?

20 A. That is correct.

21 Q. All right. And then further up in the  
22 email, March 23 -- do you see the date, March 23?

23 A. Yes.

24 Q. Ms. Wells, if you could highlight that.  
25 Do you see the reference to the term

1 "zakat" in that portion of the email as well?

2 A. Yes, I do.

3 Q. And again, in the context, your  
4 understanding of the term is for humanitarian work?

5 A. Yes, it is. Not because I think it is.  
6 It is because that in Islam are the parameters for  
7 zakat.

8 Q. All right. So let me ask you this,  
9 Dr. Long: What would make any organization in Saudi  
10 Arabia bound in any way by the restrictions on the  
11 use of a zakat donation that you have described for  
12 us?

13 A. Well, I noted earlier that I used the term  
14 "culture" and I used the term "Islam." Islam is a  
15 religion. Culture is what folks in a -- that share  
16 their values and norms socially agree about. And in  
17 this case, Saudi culture is overlaid with Islamic  
18 values. All right?

19 So in this case, what would be -- in my  
20 personal opinion and in my professional opinion, it  
21 would be very unlikely that a person would desecrate  
22 one -- the fourth pillar of the faith by doing  
23 anything with it that were not permissible within  
24 the parameters of that -- in this case zakat. And  
25 it would be very unlikely that culturally -- not

1 just legally, but culturally -- that they would  
2 desecrate something that they believe is a -- is a  
3 basic obligation from God by sending it anywhere  
4 that was not -- that was not permissible within the  
5 parameters in Islamic law and in the Qur'an what  
6 they can do with it.

7 Q. Now, in terms of your understanding of the  
8 Saudi government, Saudi culture, Saudi society,  
9 Saudi politics, if the Saudis wanted to fund  
10 mujahideen, would that be done through an Islamic  
11 charity such as al-Haramain in this way with this  
12 type of documentation?

13 A. It would -- it could be done, but it is my  
14 view that the Saudi government would not do it  
15 through the al-Haramain. They would do it in other  
16 ways which they have to do it, which would be -- one  
17 way would be sadaqah, which has a broader  
18 connotation, but they -- I have been told by very  
19 senior Saudi officials that the committee that we  
20 had mentioned just earlier limited themselves to  
21 doing it for -- to the things that they were -- that  
22 they were looking at from all of these different  
23 foundations, that it was for humanitarian --  
24 basically for humanitarian need, and that is what  
25 the zakat limits it to, and that is what the donor

1 of the zakat has to do.

2 Q. I'd like, Ms. Cooke, if you could please  
3 show Dr. Long FinCEN-4 for starters. And this is in  
4 evidence, so it would go to the jury, please.  
5 Dr. Long, did you have an opportunity to take a look  
6 at this exhibit prior to your testimony today?

7 A. Yes, I did.

8 Q. Okay. And you're familiar with CMIR, what  
9 is a CMIR?

10 A. Yes.

11 Q. We have all of the individual documents  
12 from which this chart has been created. I'm not  
13 going to ask that you look at each of those  
14 individually, but in looking at this, and you see a  
15 pattern of a fellow named Soliman al-But'he bringing  
16 cash instruments into the United States at least  
17 nine times over a several-year period, and sometimes  
18 in large quantities.

19 A. Yes, I do.

20 Q. Okay. We have some in the other exhibits  
21 that many of these were cash instruments or  
22 travelers checks. My question to you is this:  
23 Based on your familiarity with the Saudi economy and  
24 Saudi business, are you surprised to see that there  
25 is a significant use of cash instruments in this

1 way?

2 A. No, I'm not.

3 Q. Can you tell the members of the jury,  
4 please, why you're not surprised at this. What have  
5 you personally seen and experienced about the way in  
6 which Saudi business people or private people  
7 operate?

8 A. Well, I would start with there's a  
9 generation gap here. Saudi Arabia's society,  
10 cultural values are still -- have always been for  
11 1400 years Islamic, but the underlying basis culture  
12 has been as old as the Old Testament because that's  
13 where it came from. And that was -- it was very,  
14 very isolated country up until the 20th Century.  
15 The only foreigners that they regularly saw were the  
16 pilgrims that went for Mecca, and they were all  
17 Muslims.

18 There were no banks because they  
19 considered banks to be using usury because that's  
20 what people who loaned money did back 1400 years  
21 ago, and so they said we don't want anybody charging  
22 interest 1400 years ago. So it was very, very  
23 common that people would use cash. It was usually  
24 -- in olden times it was coins, silver and gold.  
25 And that custom actually survived up until the



1 1950s. Aramco, the big oil company in Saudi Arabia,  
2 which was owned by Americans back then, had to fly  
3 in something like three or four DC-4s, DC-6s full of  
4 Maria Theresa silver dollars from Austria just to  
5 pay the payroll because the people would not take  
6 paper money or anything else.

7 And in the late 1950s an American went  
8 over and started their Central Bank. And they  
9 didn't call it a bank because they didn't like the  
10 name, and they called it the Saudi Arabia Monetary  
11 Agency, and that's still what it is and that's still  
12 what it's called to this day. And he wanted to get  
13 people to use paper money. So he made these things  
14 up and it said -- for the pilgrims, and it said  
15 payor of -- this is -- to the payor on demand we  
16 will give you ten riyals. And what he was really  
17 hoping was that they would get --

18 MR. GORDER: Excuse me, Your Honor --

19 A. -- so used to using --

20 MR. GORDER: I think we're getting off  
21 topic.

22 THE COURT: Objection sustained.

23 BY MR. WAX:

24 Q. Dr. Long, the bottom line is, that today  
25 the use of cash, cash equivalents remains common in

1 Saudi Arabia as you understand it?

2 A. Well, that's what I was just going to end  
3 with, that to this day, people still routinely  
4 prefer to use cash and to carry cash rather than to  
5 transfer it electronically any other way. And it  
6 has happened to me personally, so I know about it,  
7 and it is common. And younger people, maybe under  
8 25, might start using electronic stuff, but older  
9 people still prefer to use cash to this day.

10 Q. All right. And one last question, sir.

11 A. Yes.

12 Q. If we could show the witness, please,  
13 Exhibit 731, and I believe that's in evidence and  
14 would go to the jury, as well.

15 A. Yes.

16 Q. And this has a second page on it.

17 A. Yes. I've seen it.

18 Q. All right. You've had an opportunity to  
19 look at this, a list of bank account numbers for the  
20 al-Haramain Saudi organization for bank accounts  
21 that they held at the Al-Rajhi Bank in Saudi Arabia?

22 A. Yes.

23 Q. And you've had the opportunity to look at  
24 the description for the Asian Committee, account  
25 9889?

1 A. Yes.

2 Q. Okay. If you were attempting to determine  
3 what happened to the money with respect to Chechnya  
4 and al-Haramain Saudi, is this an account that you  
5 would want to look at?

6 A. Absolutely.

7 MR. WAX: No further questions.

8 THE COURT: Cross?

9 CROSS-EXAMINATION

10 BY MR. GORDER:

11 Q. Dr. Long, okay, are you telling us that  
12 everybody is perfect in Saudi Arabia?

13 A. No.

14 Q. They don't always follow the rules?

15 A. No, but they follow some more than they do  
16 others.

17 Q. You're aware, aren't you, that from your  
18 work in terrorism that Islamic charities have  
19 diverted zakat on terrorism?

20 A. I am aware that they were accused of  
21 giving money to terrorists, yes.

22 Q. You told us that in your opinion, the  
23 SJRC, the Saudi committee that we've been talking  
24 about, would have prevented any diversion of zakat  
25 for improper purposes. Is that correct?

1 A. To Chechnya, yes.

2 Q. And that is based on your conversations  
3 with Saudi officials?

4 A. Yes.

5 Q. So Saudi officials did not tell us -- or  
6 tell you that there was anything wrong in Saudi  
7 Arabia?

8 A. What do you mean by anything wrong?

9 Q. With the SJRC.

10 A. I beg your pardon?

11 Q. They didn't tell you there was anything  
12 wrong in Saudi Arabia with the SJRC.

13 A. No.

14 Q. Did you discuss with them who the first  
15 director of the SJRC was, 1999/2000?

16 A. Yes.

17 Q. And who was that?

18 A. It was an allah shaykh.

19 Q. It was who?

20 A. It was an allah shaykh.

21 Q. An allah shaykh.

22 A. Yeah.

23 Q. What is that?

24 A. Oh, al-Haramain. I'm sorry. I  
25 misunderstood you. I thought you meant of the

1 committee. Of al-Haramain?

2 Q. No. Of the SJRC.

3 A. I don't remember.

4 Q. Wasn't the initial chief director someone  
5 named Wa'el Jalaidan?

6 A. Yes. Yes. That's right.

7 Q. Good friends of Osama bin Laden's?

8 A. I don't know.

9 Q. Did you discuss that with Saudi officials  
10 that told you that SJRC was hunky-dory?

11 A. I didn't see any reason to.

12 Q. Did you know that he was removed by the  
13 Saudi government in 2002?

14 A. No, I didn't.

15 Q. Did you know that he was a key founder  
16 with Osama bin Laden of the mujahideen services  
17 office?

18 A. No, I did not.

19 Q. The precursor to al-Qaeda?

20 A. Yes.

21 Q. Does that affect your opinion that the  
22 SJRC would have been on the job in preventing  
23 diversion of zakat?

24 A. No.

25 Q. In your study of -- well, you retired from

1 the State Department in 1993. Is that correct?

2 A. That's correct.

3 Q. Did you -- you've continued to study  
4 terrorism --

5 A. Yes.

6 Q. -- since that time?

7 Are you familiar with the 9/11  
8 Commission's case study on al-Haramain?

9 A. Yes.

10 Q. You're familiar that they concluded --  
11 well, let me ask you this. The 9/11 Commission was  
12 set up by the government to try to figure out what  
13 went wrong with 9/11.

14 A. Yes.

15 Q. Issued a number of reports.

16 A. Yes.

17 Q. Had a large number of distinguished people  
18 working for them?

19 A. That's correct.

20 Q. Perhaps some of them colleagues of yours  
21 from your State Department days?

22 A. Yes.

23 Q. Think they did a good job?

24 A. Overall, yes.

25 Q. Now, are you aware that they indicated

1 that there was little regulation of charities in  
2 Saudi Arabia before 9/11?

3 A. I'm aware that there was little oversight  
4 of day-to-day operations.

5 Q. Well, if there was little oversight of  
6 day-to-day operations, how can you be confident that  
7 the SJRC could prevent the diversion of zakat?

8 A. Because their job was to coordinate where  
9 the money went to.

10 Q. Didn't the commission in their study say  
11 that the foreign operations of charities from Saudi  
12 Arabia was not regulated at all until 2002?

13 A. There was some regulation, but the job of  
14 the committee was to coordinate where they went.

15 Q. My question is: Didn't the 9/11  
16 Commission conclude that there was no regulation of  
17 foreign operations of Islamic charities from Saudi  
18 Arabia until 2002?

19 A. There was no oversight in the whole  
20 operation from donor to recipient until 2002.

21 Q. If there was no way to control how it went  
22 from donor to recipient, how could the SJRC be sure  
23 that there was no diversion of zakat?

24 A. Because zakat is different from any other  
25 kind of donation or charitable giving in that it has

1 very strict parameters to it. And it is those very  
2 strict parameters to it which leads me to the  
3 opinion that they would be carried out by  
4 al-Haramain regardless of the other kinds of monies  
5 they might get from other people for other things.

6 Q. If they were perfect.

7 MR. WAX: Objection. Argumentative,  
8 Your Honor.

9 THE COURT: Overruled.

10 BY MR. GORDER:

11 Q. Can you answer the question, please?

12 A. Even if they were imperfect because it is  
13 a very strong cultural mores in Saudi Arabia that  
14 whatever you might be tempted to do or whatever you  
15 would desire to do, even if you desired to do it  
16 thinking that it is in the name of Islam, you do not  
17 desecrate one of the four pillars of the faith  
18 because you will be answerable to God.

19 And this is a very strong belief in --  
20 throughout the country in the culture. So that they  
21 take, for example, swearing about -- in an affidavit  
22 that it is true, they take that very, very seriously  
23 and this is a very strong feeling throughout the  
24 country.

25 Q. If we could go to SW-68. Now, did you



1 review this document that was found in the computers  
2 at al-Haramain in United States before testifying?

3 A. Could I see the rest of it?

4 Q. Sure.

5 MR. WAX: Isn't this the same as EK-5,  
6 different version?

7 MR. GORDER: Very similar.

8 MR. WAX: Thank you, Mr. Gorder.

9 A. I don't remember seeing that version, no.  
10 BY MR. GORDER:

11 Q. Okay. Appears to be another translation  
12 of Mr. Uthaymeen's -- or Shaykh Uthaymeen's fatwa?

13 A. Uh-huh.

14 Q. If we could highlight this part here. It  
15 indicates that zakat can be used for the mujahideen,  
16 the Muslims fighting the war, in Chechnya?

17 A. My take on that is because of the  
18 parameters of what you can do with zakat, it does  
19 not include using zakat for combat operations. It  
20 would be in this case more like Clara Barton, who  
21 founded the Red Cross, starting off with field  
22 hospitals for union troops in the Civil War and  
23 actually took care of confederate troops at the same  
24 time, and it was for humanitarian purposes. And  
25 that is what zakat has to be used for.

1 Q. Of course it says for Muslims fighting the  
2 war. Correct?

3 A. It says for mujahideen. It doesn't say  
4 it's helping them fight the war.

5 Q. Now, if we could jump to EK-5A, you  
6 previously testified that this was about jihad.

7 A. Where is jihad in there?

8 Q. Isn't this about the jihad in Chechnya?

9 A. As I see it, it's about -- it says sadaqah  
10 and zakat, and sadaqah can be used in a broader  
11 context than zakat, and it could be used for jihad.

12 Q. In fact, in your opinion, the way someone  
13 in Saudi Arabia would fund war fighting efforts  
14 would be through cash. Is that correct?

15 A. Yes.

16 Q. Now, would zakat, in your opinion, be  
17 treated as sacred?

18 A. Treated as what?

19 Q. Sacred.

20 A. Sacred? Yes.

21 Q. There would be every effort to keep the  
22 principal amount denoted for zakat intact?

23 A. Not only that, but it would be incumbent  
24 upon the donor to do this as a rite in showing his  
25 love and obedience to God, just like any other

1 religious rite. So it has a religious connotation  
2 to it that sadaqah -- far beyond what sadaqah has.

3 Q. So if someone donated some zakat, they  
4 would want the entire amount to go for the donated  
5 purpose. Is that correct?

6 A. Yes.

7 Q. Keep the expenses of the transaction as  
8 low as possible?

9 A. Yes.

10 Q. So if you were wire transferring money for  
11 a \$15 fee, that would probably be a good way to keep  
12 the principal intact?

13 A. They would be trying to get it any way  
14 they could to a place where it's very hard to get  
15 anything into.

16 Q. Okay. Well, if you were trying to get  
17 some zakat from Oregon to Riyadh, and you had  
18 \$150,000, would a good way to do that be to wire  
19 transfer the money for a \$15 fee?

20 A. It would be a good way for you to do it,  
21 but that doesn't necessarily mean to a Saudi it  
22 would be a good way to do it.

23 Q. Well, if the organization had nine bank  
24 accounts in Riyadh, that would probably be a good  
25 way to do it?

1 A. Yes.

2 Q. Rather than get the money in travelers  
3 checks?

4 A. No.

5 Q. Pay a \$1,300 fee for them?

6 A. No.

7 Q. And just diminish the zakat?

8 A. As I said earlier, carrying cash was a  
9 very normal way of transferring money, and still is.

10 Q. If the carrying of the cash costs \$1,300?

11 A. Yes.

12 Q. How about --

13 A. This is a very rich country. They are  
14 looking at how to get where it came from to where it  
15 should go.

16 Q. So they fly somebody over here, couple  
17 thousand dollars in airfare?

18 A. Back when I was living in Saudi Arabia,  
19 the Department of Defense -- the Ministry of Defense  
20 in Saudi Arabia owed the defense department -- I  
21 don't know -- it was over a million dollars. I  
22 can't remember the exact amount. And I was heading  
23 back to Washington, and they asked me to carry a  
24 check for that amount of money back to Washington.  
25 And my bosses said since I'm going and since the

1 other way to do it would be put it through the  
2 diplomatic pouch, which would take longer because it  
3 came once a week, I did.

4 And for the Department of Defense that was  
5 a very normal way to do things. For Americans it  
6 was not, and it burned a hole in my pocket and I was  
7 scared to death.

8 Q. But it was a check?

9 A. It was a check.

10 Q. Why did the Saudi government remove the  
11 cash boxes -- the zakat boxes in the mosques in  
12 2002/2003?

13 A. Because all the heat they got from the  
14 United States about giving money to terrorists,  
15 which they saw as shaming the government and as a  
16 betrayal of the United States's relationship with  
17 them.

18 Q. Dr. Long, I -- could we have exhibit 670,  
19 please. You recall testifying about this exhibit?

20 A. No, I didn't.

21 Q. Why don't you take a look at it.

22 A. Oh, okay. I'm sorry.

23 Q. And if we could just scroll down a little  
24 bit further. Okay. That's fine.

25 A. Yes.

1 Q. Now, I recall reading in your report about  
2 this particular exhibit. You indicated that  
3 Mr. El-Fiki had received a response from Mr. Jazak  
4 Khair from al-Haramain.

5 A. Yes.

6 Q. Have you ever talked to Mr. Khair?

7 A. No.

8 Q. Have you read any reports about Mr. Khair  
9 and what he has to say?

10 A. No.

11 Q. You speak Arabic, don't you?

12 A. I beg your pardon?

13 Q. You speak Arabic?

14 A. Yes.

15 Q. Doesn't "Jazak Allah Khair" mean "May God  
16 bless you"?

17 A. That's barak Allah feek (phonetic).

18 Q. What does it mean in Arabic?

19 A. What, khair?

20 Q. Jazak Allah Khair. I can't pronounce it  
21 right.

22 A. It's just a saying about God giving you  
23 blessings.

24 Q. Okay. So it's not a person. It's a  
25 blessing.

1 A. Yes.

2 Q. But in your report you say you received a  
3 response from Mr. Jazak Allah Khair.

4 A. Okay.

5 MR. GORDER: No further questions,  
6 Your Honor.

7 MR. WAX: Your Honor, I have one  
8 question, but I need to take it up with the court  
9 because it relates to an earlier issue and something  
10 that Mr. Gorder just went into.

11 THE COURT: All right. Are you going  
12 to be calling other witnesses?

13 MR. WAX: I have one other short  
14 witness who has been waiting patiently all day who  
15 would love to testify and be able to go home.

16 THE COURT: Well, what we'll do is put  
17 that witness on. Members of the jury, let's go  
18 ahead and finish the testimony. Well, let me ask  
19 this.

20 Are you going to have rebuttal  
21 evidence?

22 MR. CARDANI: At this point, no.

23 THE COURT: All right.

24 MR. CARDANI: And depending on what  
25 this is --

1 THE COURT: All right.

2 MR. WAX: Your Honor, excuse me. I'm  
3 not indicating that we're prepared to rest. My  
4 indication is we have one more short witness today.

5 THE COURT: All right. Do you have  
6 other witnesses?

7 MR. WAX: We will need to be  
8 consulting tonight. I think you understand the  
9 issue.

10 THE COURT: In that case we're going  
11 to take a recess until 9:00 tomorrow morning.

12 Members of the jury, I'm pretty sure  
13 we'll get the case to you tomorrow. Okay? We're  
14 pretty much at the end of the evidence. Very  
15 shortly in the morning I'll be giving you your  
16 instructions on the law and you'll hear the  
17 argument. Okay. Thanks for your patience.

18 (Jury exited courtroom.)

19 THE COURT: I assume you're referring  
20 to a secured area -- is that correct? -- or are you  
21 not?

22 MR. WAX: I don't believe that there's  
23 anything that I need to say in closed session, Your  
24 Honor.

25 THE COURT: Well, all right. Go



1 ahead.

2 MR. WAX: Mr. Gorder asked about a  
3 loss of \$1,300, and I believe that once again by the  
4 government suggesting to the jury that there has  
5 been something done that diminishes the amount of  
6 money that is available in Saudi Arabia, they are  
7 making the Exhibits 704 and 705 critical to  
8 rebuttal.

9 THE COURT: Okay. I disagree.

10 You may step down.

11 Now, we probably should take some time  
12 to just go over some of the remaining questions you  
13 need a ruling on. I sort of hate to do that to our  
14 reporter tonight, and plus, I will tell you right  
15 now, I'm in a lot of pain, so it's not in your best  
16 interest for me to do it tonight. I've looked at  
17 the material, and we'll do it -- I think what we're  
18 going to do is come in at seven in the morning. All  
19 right? And we'll do that -- and we'll probably do  
20 that in Chambers.

21 How long do you request for your  
22 summations?

23 MR. GORDER: Your Honor, I haven't  
24 quite formed it out because I wasn't sure what --  
25 certainly no more than 90 minutes.

1 THE COURT: All right.

2 MR. WAX: I was guessing up to two  
3 hours, Your Honor.

4 THE COURT: 90 minutes apiece.  
5 Anything further tonight?

6 MR. CARDANI: So tomorrow we can talk  
7 about jury instructions, as well, Judge?

8 THE COURT: Yes. We can do that  
9 tomorrow morning at seven.

10 MR. GORDER: Your Honor, can I just  
11 understand, is it your practice to do the jury  
12 instructions before argument --

13 THE COURT: Yes.

14 MR. GORDER: -- or after? Okay.  
15 Thanks.

16 MR. WAX: So, Your Honor, we have one  
17 short witness left, and then we need to consult with  
18 our client tonight before determining --

19 THE COURT: I understand that. I know  
20 the code words. We're in recess.

21 (The proceedings were adjourned  
22 at 5:09 p.m.)  
23  
24  
25

1     STATE OF OREGON             )  
  )     ss.  
2     County of Lane             )

3  
4             I, Deborah M. Bonds, CSR-RPR, a Certified  
5     Shorthand Reporter for the State of Oregon, do  
6     hereby certify that at the time and place set forth  
7     in the caption I reported all testimony and other  
8     oral proceedings in the foregoing matter; that the  
9     foregoing transcript consisting of pages 120-273  
10    contains a full, true and correct transcript of the  
11    proceedings reported by me to the best of my ability  
12    on said date.

13            IN WITNESS WHEREOF, I have set my hand and CSR  
14    seal this 8th day of September 2010, in the City of  
15    Eugene, County of Lane, State of Oregon.

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24     Deborah M. Bonds, CSR-RPR  
25     CSR No. 01-0374